ACTS

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STATE OF NEW JERSEY

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New Jersey State Library

CHAPTER 36

AN ACT concerning the medical use of marijuana and amending P.L.2009, c.307.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Section 19 of P.L.2009, c.307 is amended to read as follows:

19. This act shall take effect on October 1, 2010, but the commissioner and the Director of the Division of Consumer Affairs may take such anticipatory administrative action in advance thereof as may be necessary to effectuate the provisions of this act.

2. This act shall take effect immediately.

Approved June 30, 2010.

CHAPTER 37

AN ACT reducing employer unemployment taxes and amending R.S.43:21-7.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. R.S.43:21-7 is amended to read as follows:

Contributions.

43:21-7. Contributions. Employers other than governmental entities, whose benefit financing provisions are set forth in section 4 of P.L.1971, c.346 (C.43:21-7.3), and those nonprofit organizations liable for payment in lieu of contributions on the basis set forth in section 3 of P.L.1971, c.346 (C.43:21-7.2), shall pay to the controller for the unemployment compensation fund, contributions as set forth in subsections (a), (b) and (c) hereof, and the provisions of subsections (d) and (e) shall be applicable to all employers, consistent with the provisions of the "unemployment compensation law" and the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et al.).

(a) Payment.

(1) Contributions shall accrue and become payable by each employer for each calendar year in which he is subject to this chapter (R.S.43:21-1 et seq.), with respect to having individuals in his employ during that calendar year, at the rates and on the basis hereinafter set forth. Such contributions shall become due and be paid by each employer to the controller for the fund, in accordance with such regulations as may be prescribed, and shall not be deducted, in whole or in part, from the remuneration of individuals in his employ.

(2) In the payment of any contributions, a fractional part of a cent shall be disregarded unless it amounts to $0.005 or more, in which case it shall be increased to $0.01.

(b) Rate of contributions. Each employer shall pay the following contributions:

(1) For the calendar year 1947, and each calendar year thereafter, 2 7/10% of wages paid by him during each such calendar year, except as otherwise prescribed by subsection (c) of this section.

(2) The "wages" of any individual, with respect to any one employer, as the term is used in this subsection (b) and in subsections (c), (d) and (e) of this section 7, shall include the first $4,800.00 paid during calendar year 1975, for services performed either within or without this State; provided that no contribution shall be required by this State with respect to services performed in another state if such other state imposes contribution liability with respect thereto. If an employer (hereinafter referred to as a successor employer) during any calendar year acquires substantially all the property used in a trade or business of another employer (hereinafter referred to as a predecessor), or used in a separate unit of a trade or business of a predecessor, and immediately after the acquisition employs in his trade or business an individual who immediately prior to the acquisition was employed in the trade or business of such predecessors, then, for the purpose of determining whether the successor employer has paid wages with respect to employment equal to the first $4,800.00 paid during calendar year 1975, any wages paid to such individual by such predecessor during such calendar year and prior to such acquisition shall be considered as having been paid by such successor employer.

(3) For calendar years beginning on and after January 1, 1976, the "wages" of any individual, as defined in the preceding paragraph (2) of this subsection (b), shall be established and promulgated by the Commissioner of Labor and Workforce Development on or before September 1 of the preceding year and shall be, 28 times the Statewide average weekly remunera-

tion paid to workers by employers, as determined under R.S.43:21-3(c), raised to the next higher multiple of $100.00 if not already a multiple thereof, provided that if the amount of wages so determined for a calendar year is less than the amount similarly determined for the preceding year, the greater amount will be used; provided, further, that if the amount of such wages so determined does not equal or exceed the amount of wages as defined in subsection (b) of section 3306 of the Internal Revenue Code of 1986 (26 U.S.C. s.3306(b)), the wages as determined in this paragraph in any calendar year shall be raised to equal the amount established under the "Federal Unemployment Tax Act," chapter 23 of the Internal Revenue Code of 1986 (26 U.S.C. s.3301 et seq.), for that calendar year.

(c) Future rates based on benefit experience.

(1) A separate account for each employer shall be maintained and this shall be credited with all the contributions which he has paid on his own behalf on or before January 31 of any calendar year with respect to employment occurring in the preceding calendar year; provided, however, that if January 31 of any calendar year falls on a Saturday or Sunday, an employer's account shall be credited as of January 31 of such calendar year with all the contributions which he has paid on or before the next succeeding day which is not a Saturday or Sunday. But nothing in this chapter (R.S.43:21-1 et seq.) shall be construed to grant any employer or individuals in his service prior claims or rights to the amounts paid by him into the fund either on his own behalf or on behalf of such individuals. Benefits paid with respect to benefit years commencing on and after January 1, 1953, to any individual on or before December 31 of any calendar year with respect to unemployment in such calendar year and in preceding calendar years shall be charged against the account or accounts of the employer or employers in whose employment such individual established base weeks constituting the basis of such benefits, except that, with respect to benefit years commencing after January 4, 1998, an employer's account shall not be charged for benefits paid to a claimant if the claimant's employment by that employer was ended in any way which, pursuant to subsection (a), (b), (c), (f), (g) or (h) of R.S.43:21-5, would have disqualified the claimant for benefits if the claimant had applied for benefits at the time when that employment ended. Benefits paid under a given benefit determination shall be charged against the account of the employer to whom such determination relates. When each benefit payment is made, either a copy of the benefit check or other form of notification shall be promptly sent to the employer against whose account the benefits are to be charged. Such copy or notification shall identify the employer against whose account the amount of such

payment is being charged, shall show at least the name and social security account number of the claimant and shall specify the period of unemployment to which said check applies.

Each employer shall be furnished an annual summary statement of benefits charged to his account.

(2) Regulations may be prescribed for the establishment, maintenance, and dissolution of joint accounts by two or more employers, and shall, in accordance with such regulations and upon application by two or more employers to establish such an account, or to merge their several individual accounts in a joint account, maintain such joint account as if it constituted a single employer's account.

(3) No employer's rate shall be lower than 5.4% unless assignment of such lower rate is consistent with the conditions applicable to additional credit allowance for such year under section 3303(a)(1) of the Internal Revenue Code of 1986 (26 U.S.C. s.3303(a)(1)), any other provision of this section to the contrary notwithstanding.

(4) Employer Reserve Ratio. (A) Each employer's rate shall be 2 8/10%, except as otherwise provided in the following provisions. No employer's rate for the 12 months commencing July 1 of any calendar year shall be other than 2 8/10%, unless as of the preceding January 31 such employer shall have paid contributions with respect to wages paid in each of the three calendar years immediately preceding such year, in which case such employer's rate for the 12 months commencing July 1 of any calendar year shall be determined on the basis of his record up to the beginning of such calendar year. If, at the beginning of such calendar year, the total of all his contributions, paid on his own behalf, for all past years exceeds the total benefits charged to his account for all such years, his contribution rate shall be:

(1) 2 5/10%, if such excess equals or exceeds 4%, but less than 5%, of his average annual payroll (as defined in paragraph (2), subsection (a) of R.S.43:21-19);

(2) 2 2/10%, if such excess equals or exceeds 5%, but is less than 6%, of his average annual payroll;

(3) 1 9/10%, if such excess equals or exceeds 6%, but is less than 7%, of his average annual payroll;

(4) 1 6/10%, if such excess equals or exceeds 7%, but is less than 8%, of his average annual payroll;

(5) 1 3/10%, if such excess equals or exceeds 8%, but is less than 9%, of his average annual payroll;

(6) 1%, if such excess equals or exceeds 9%, but is less than 10%, of his average annual payroll;

(7) 7/10 of 1%, if such excess equals or exceeds 10%, but is less than 11%, of his average annual payroll;

(8) 4/10 of 1%, if such excess equals or exceeds 11% of his average annual payroll.

(B) If the total of an employer's contributions, paid on his own behalf, for all past periods for the purposes of this paragraph (4), is less than the total benefits charged against his account during the same period, his rate shall be:

(1) 4%, if such excess is less than 10% of his average annual payroll;

(2) 4 3/10%, if such excess equals or exceeds 10%, but is less than 20%, of his average annual payroll;

(3) 4 6/10%, if such excess equals or exceeds 20% of his average annual payroll.

(C) Specially assigned rates.

(i) If no contributions were paid on wages for employment in any calendar year used in determining the average annual payroll of an employer eligible for an assigned rate under this paragraph (4), the employer's rate shall be specially assigned as follows:

if the reserve balance in its account is positive, its assigned rate shall be the highest rate in effect for positive balance accounts for that period, or 5.4%, whichever is higher, and

if the reserve balance in its account is negative, its assigned rate shall be the highest rate in effect for deficit accounts for that period.

(ii) If, following the purchase of a corporation with little or no activity, known as a corporate shell, the resulting employing unit operates a new or different business activity, the employing unit shall be assigned a new employer rate.

(iii)Entities operating under common ownership, management or control, when the operation of the entities is not identifiable, distinguishable and severable, shall be considered a single employer for the purposes of this chapter (R.S.43:21-1 et seq.).

(D) The contribution rates prescribed by subparagraphs (A) and (B) of this paragraph (4) shall be increased or decreased in accordance with the provisions of paragraph (5) of this subsection (c) for experience rating periods through June 30, 1986.

(5) (A) Unemployment Trust Fund Reserve Ratio. If on March 31 of any calendar year the balance in the unemployment trust fund equals or exceeds 4% but is less than 7% of the total taxable wages reported to the controller as of that date in respect to employment during the preceding calendar year, the contribution rate, effective July 1 following, of each employer eligible for a contribution rate calculation based upon benefit experi-

ence, shall be increased by 3/10 of 1% over the contribution rate otherwise established under the provisions of paragraph (3) or (4) of this subsection. If on March 31 of any calendar year the balance of the unemployment trust fund exceeds 2 1/2% but is less than 4% of the total taxable wages reported to the controller as of that date in respect to employment during the preceding calendar year, the contribution rate, effective July 1 following, of each employer eligible for a contribution rate calculation based upon benefit experience, shall be increased by 6/10 of 1% over the contribution rate otherwise established under the provisions of paragraph (3) or (4) of this subsection.

If on March 31 of any calendar year the balance of the unemployment trust fund is less than 2 1/2% of the total taxable wages reported to the controller as of that date in respect to employment during the preceding calendar year, the contribution rate, effective July 1 following, of each employer: (1) eligible for a contribution rate calculation based upon benefit experience, shall be increased by (i) 6/10 of 1% over the contribution rate otherwise established under the provisions of paragraph (3), (4)(A) or (4)(B) of this subsection, and (ii) an additional amount equal to 20% of the total rate established herein, provided, however, that the final contribution rate for each employer shall be computed to the nearest multiple of 1/10% if not already a multiple thereof; (2) not eligible for a contribution rate calculation based upon benefit experience, shall be increased by 6/10 of 1% over the contribution rate otherwise established under the provisions of paragraph (4) of this subsection. For the period commencing July 1, 1984 and ending June 30, 1986, the contribution rate for each employer liable to pay contributions under R.S.43:21-7 shall be increased by a factor of 10% computed to the nearest multiple of 1/10% if not already a multiple thereof.

(B) If on March 31 of any calendar year the balance in the unemployment trust fund equals or exceeds 10% but is less than 12 1/2% of the total taxable wages reported to the controller as of that date in respect to employment during the preceding calendar year, the contribution rate, effective July 1 following, of each employer eligible for a contribution rate calculation based upon benefit experience, shall be reduced by 3/10 of 1% under the contribution rate otherwise established under the provisions of paragraphs (3) and (4) of this subsection; provided that in no event shall the contribution rate of any employer be reduced to less than 4/10 of 1%. If on March 31 of any calendar year the balance in the unemployment trust fund equals or exceeds 12 1/2% of the total taxable wages reported to the controller as of that date in respect to employment during the preceding calendar year, the contribution rate, effective July 1 following, of each employer eligible for a contribution rate calculation based upon benefit experience,

shall be reduced by 6/10 of 1% if his account for all past periods reflects an excess of contributions paid over total benefits charged of 3% or more of his average annual payroll, otherwise by 3/10 of 1% under the contribution rate otherwise established under the provisions of paragraphs (3) and (4) of this subsection; provided that in no event shall the contribution rate of any employer be reduced to less than 4/10 of 1%.

(C) The "balance" in the unemployment trust fund, as the term is used in subparagraphs (A) and (B) above, shall not include moneys credited to the State's account under section 903 of the Social Security Act, as amended (42 U.S.C. s.1103), during any period in which such moneys are appropriated for the payment of expenses incurred in the administration of the "unemployment compensation law."

(D) Prior to July 1 of each calendar year the controller shall determine the Unemployment Trust Fund Reserve Ratio, which shall be calculated by dividing the balance of the unemployment trust fund as of the prior March 31 by total taxable wages reported to the controller by all employers as of March 31 with respect to their employment during the last calendar year.

(E) (i) (Deleted by amendment, P.L.1997, c.263).

(ii) (Deleted by amendment, P.L.2001, c.152).

(iii) (Deleted by amendment, P.L.2003, c.107).

(iv) (Deleted by amendment, P.L.2004, c.45).

(v) (Deleted by amendment, P.L.2008, c.17).

(vi) With respect to experience rating years beginning on or after July 1, 2004, the new employer rate or the unemployment experience rate of an employer under this section shall be the rate which appears in the column headed by the Unemployment Trust Fund Reserve Ratio as of the applicable calculation date and on the line with the Employer Reserve Ratio, as defined in paragraph (4) of this subsection (R.S.43:21-7 (c)(4)), as set forth in the following table:

EXPERIENCE RATING TAX TABLE
Fund Reserve Ratio[1]

Employer Reserve Ratio[2]	1.40% and Over A	1.00% to 1.39% B	0.75% to 0.99% C	0.50% to 0.74% D	0.49% and Under E
Positive Reserve Ratio:					
17% and over	0.3	0.4	0.5	0.6	1.2
16.00% to 16.99%	0.4	0.5	0.6	0.6	1.2

15.00% to 15.99%	0.4	0.6	0.7	0.7	1.2
14.00% to 14.99%	0.5	0.6	0.7	0.8	1.2
13.00% to 13.99%	0.6	0.7	0.8	0.9	1.2
12.00% to 12.99%	0.6	0.8	0.9	1.0	1.2
11.00% to 11.99%	0.7	0.8	1.0	1.1	1.2
10.00% to 10.99%	0.9	1.1	1.3	1.5	1.6
9.00% to 9.99%	1.0	1.3	1.6	1.7	1.9
8.00% to 8.99%	1.3	1.6	1.9	2.1	2.3
7.00% to 7.99%	1.4	1.8	2.2	2.4	2.6
6.00% to 6.99%	1.7	2.1	2.5	2.8	3.0
5.00% to 5.99%	1.9	2.4	2.8	3.1	3.4
4.00% to 4.99%	2.0	2.6	3.1	3.4	3.7
3.00% to 3.99%	2.1	2.7	3.2	3.6	3.9
2.00% to 2.99%	2.2	2.8	3.3	3.7	4.0
1.00% to 1.99%	2.3	2.9	3.4	3.8	4.1
0.00% to 0.99%	2.4	3.0	3.6	4.0	4.3
Deficit Reserve Ratio:					
-0.00% to -2.99%	3.4	4.3	5.1	5.6	6.1
-3.00% to -5.99%	3.4	4.3	5.1	5.7	6.2
-6.00% to -8.99%	3.5	4.4	5.2	5.8	6.3
-9.00% to-11.99%	3.5	4.5	5.3	5.9	6.4
-12.00% to-14.99%	3.6	4.6	5.4	6.0	6.5
-15.00% to-19.99%	3.6	4.6	5.5	6.1	6.6
-20.00% to-24.99%	3.7	4.7	5.6	6.2	6.7
-25.00% to-29.99%	3.7	4.8	5.6	6.3	6.8
-30.00% to-34.99%	3.8	4.8	5.7	6.3	6.9
-35.00% and under	5.4	5.4	5.8	6.4	7.0
New Employer Rate	2.8	2.8	2.8	3.1	3.4

[1]Fund balance as of March 31 as a percentage of taxable wages in the prior calendar year.

[2]Employer Reserve Ratio (Contributions minus benefits as a percentage of employer's taxable wages).

(F) (i) (Deleted by amendment, P.L.1997, c.263).

(ii) (Deleted by amendment, P.L.2008, c.17).

(iii) With respect to experience rating years beginning on or after July 1, 2004, if the fund reserve ratio, based on the fund balance as of the prior March 31, is less than 0.50%, the contribution rate for each employer liable to pay contributions, as computed under subparagraph (E) of this paragraph (5), shall be increased by a factor of 10% computed to the nearest multiple of 1/10% if not already a multiple thereof.

(G) On or after January 1, 1993, notwithstanding any other provisions of this paragraph (5), the contribution rate for each employer liable to pay

contributions, as computed under subparagraph (E) of this paragraph (5), shall be decreased by 0.1%, except that, during any experience rating year starting before January 1, 1998 in which the fund reserve ratio is equal to or greater than 7.00% or during any experience rating year starting on or after January 1, 1998, in which the fund reserve ratio is equal to or greater than 3.5%, there shall be no decrease pursuant to this subparagraph (G) in the contribution of any employer who has a deficit reserve ratio of negative 35.00% or under.

(H) On and after January 1, 1998 until December 31, 2000 and on or after January 1, 2002 until June 30, 2006, the contribution rate for each employer liable to pay contributions, as computed under subparagraph (E) of this paragraph (5), shall be decreased by a factor, as set out below, computed to the nearest multiple of 1/10%, except that, if an employer has a deficit reserve ratio of negative 35.0% or under, the employer's rate of contribution shall not be reduced pursuant to this subparagraph (H) to less than 5.4%:

From January 1, 1998 until December 31, 1998, a factor of 12%;
From January 1, 1999 until December 31, 1999, a factor of 10%;
From January 1, 2000 until December 31, 2000, a factor of 7%;
From January 1, 2002 until March 31, 2002, a factor of 36%;
From April 1, 2002 until June 30, 2002, a factor of 85%;
From July 1, 2002 until June 30, 2003, a factor of 15%;
From July 1, 2003 until June 30, 2004, a factor of 15%;
From July 1, 2004 until June 30, 2005, a factor of 7%;
From July 1, 2005 until December 31, 2005, a factor of 16%; and
From January 1, 2006 until June 30, 2006, a factor of 34%.

The amount of the reduction in the employer contributions stipulated by this subparagraph (H) shall be in addition to the amount of the reduction in the employer contributions stipulated by subparagraph (G) of this paragraph (5), except that the rate of contribution of an employer who has a deficit reserve ratio of negative 35.0% or under shall not be reduced pursuant to this subparagraph (H) to less than 5.4% and the rate of contribution of any other employer shall not be reduced to less than 0.0%.

(I) (Deleted by amendment, P.L.2008, c.17).

(J) On or after July 1, 2001, notwithstanding any other provisions of this paragraph (5), the contribution rate for each employer liable to pay contributions, as computed under subparagraph (E) of this paragraph (5), shall be decreased by 0.0175%, except that, during any experience rating year starting on or after July 1, 2001, in which the fund reserve ratio is equal to or greater than 3.5%, there shall be no decrease pursuant to this subparagraph (J) in the contribution of any employer who has a deficit re-

serve ratio of negative 35.00% or under. The amount of the reduction in the employer contributions stipulated by this subparagraph (J) shall be in addition to the amount of the reduction in the employer contributions stipulated by subparagraphs (G) and (H) of this paragraph (5), except that the rate of contribution of an employer who has a deficit reserve ratio of negative 35.0% or under shall not be reduced pursuant to this subparagraph (J) to less than 5.4% and the rate of contribution of any other employer shall not be reduced to less than 0.0%.

(K) With respect to experience rating years beginning on or after July 1, 2009, if the fund reserve ratio, based on the fund balance as of the prior March 31, is:

(i) Equal to or greater than 5.00% but less than 7.5%, the contribution rate for each employer liable to pay contributions, as computed under subparagraph (E) of this paragraph (5), shall be reduced by a factor of 25% computed to the nearest multiple of 1/10% if not already a multiple thereof except that there shall be no decrease pursuant to this subparagraph (K) in the contribution of any employer who has a deficit reserve ratio of 35.00% or under;

(ii) Equal to or greater than 7.5% but less than 10.0%, the contribution rate for each employer liable to pay contributions, as computed under subparagraph (E) of this paragraph (5), shall be reduced by a factor of 50% computed to the nearest multiple of 1/10% if not already a multiple thereof except that there shall be no decrease pursuant to this subparagraph (K) in the contribution of any employer who has a deficit reserve ratio of 35.00% or under.

(L) Notwithstanding any other provision of this paragraph (5) and notwithstanding the actual fund reserve ratio, the contribution rate for employers liable to pay contributions, as computed under subparagraph (E) of this paragraph (5), shall be, for fiscal year 2011, the rates set by column "C" of the table in that subparagraph.

(6) Additional contributions.

Notwithstanding any other provision of law, any employer who has been assigned a contribution rate pursuant to subsection (c) of this section for the year commencing July 1, 1948, and for any year commencing July 1 thereafter, may voluntarily make payment of additional contributions, and upon such payment shall receive a recomputation of the experience rate applicable to such employer, including in the calculation the additional contribution so made, except that, following a transfer as described under R.S.43:21-7(c)(7)(D), neither the predecessor nor successor in interest shall be eligible to make a voluntary payment of additional contributions during

the year the transfer occurs and the next full calendar year. Any such additional contribution shall be made during the 30-day period following the date of the mailing to the employer of the notice of his contribution rate as prescribed in this section, unless, for good cause, the time for payment has been extended by the controller for not to exceed an additional 60 days; provided that in no event may such payments which are made later than 120 days after the beginning of the year for which such rates are effective be considered in determining the experience rate for the year in which the payment is made. Any employer receiving any extended period of time within which to make such additional payment and failing to make such payment timely shall be, in addition to the required amount of additional payment, liable for a penalty of 5% thereof or $5.00, whichever is greater, not to exceed $50.00. Any adjustment under this subsection shall be made only in the form of credits against accrued or future contributions.

(7) Transfers.

(A) Upon the transfer of the organization, trade or business, or substantially all the assets of an employer to a successor in interest, whether by merger, consolidation, sale, transfer, descent or otherwise, the controller shall transfer the employment experience of the predecessor employer to the successor in interest, including credit for past years, contributions paid, annual payrolls, benefit charges, et cetera, applicable to such predecessor employer, pursuant to regulation, if it is determined that the employment experience of the predecessor employer with respect to the organization, trade, assets or business which has been transferred may be considered indicative of the future employment experience of the successor in interest. The successor in interest may, within four months of the date of such transfer of the organization, trade, assets or business, or thereafter upon good cause shown, request a reconsideration of the transfer of employment experience of the predecessor employer. The request for reconsideration shall demonstrate, to the satisfaction of the controller, that the employment experience of the predecessor is not indicative of the future employment experience of the successor.

(B) An employer who transfers part of his or its organization, trade, assets or business to a successor in interest, whether by merger, consolidation, sale, transfer, descent or otherwise, may jointly make application with such successor in interest for transfer of that portion of the employment experience of the predecessor employer relating to the portion of the organization, trade, assets or business transferred to the successor in interest, including credit for past years, contributions paid, annual payrolls, benefit charges, et cetera, applicable to such predecessor employer. The transfer of

employment experience may be allowed pursuant to regulation only if it is found that the employment experience of the predecessor employer with respect to the portion of the organization, trade, assets or business which has been transferred may be considered indicative of the future employment experience of the successor in interest. Credit shall be given to the successor in interest only for the years during which contributions were paid by the predecessor employer with respect to that part of the organization, trade, assets or business transferred.

(C) A transfer of the employment experience in whole or in part having become final, the predecessor employer thereafter shall not be entitled to consideration for an adjusted rate based upon his or its experience or the part thereof, as the case may be, which has thus been transferred. A successor in interest to whom employment experience or a part thereof is transferred pursuant to this subsection shall, as of the date of the transfer of the organization, trade, assets or business, or part thereof, immediately become an employer if not theretofore an employer subject to this chapter (R.S.43:21-1 et seq.).

(D) If an employer transfers in whole or in part his or its organization, trade, assets or business to a successor in interest, whether by merger, consolidation, sale, transfer, descent or otherwise and both the employer and successor in interest are at the time of the transfer under common ownership, management or control, then the employment experience attributable to the transferred business shall also be transferred to and combined with the employment experience of the successor in interest. The transfer of the employment experience is mandatory and not subject to appeal or protest.

(E) The transfer of part of an employer's employment experience to a successor in interest shall become effective as of the first day of the calendar quarter following the acquisition by the successor in interest. As of the effective date, the successor in interest shall have its employer rate recalculated by merging its existing employment experience, if any, with the employment experience acquired. If the successor in interest is not an employer as of the date of acquisition, it shall be assigned the new employer rate until the effective date of the transfer of employment experience.

(F) Upon the transfer in whole or in part of the organization, trade, assets or business to a successor in interest, the employment experience shall not be transferred if the successor in interest is not an employer at the time of the acquisition and the controller finds that the successor in interest acquired the business solely or primarily for the purpose of obtaining a lower rate of contributions.

(d) Contributions of workers to the unemployment compensation fund and the State disability benefits fund.

(1) (A) For periods after January 1, 1975, each worker shall contribute to the fund 1% of his wages with respect to his employment with an employer, which occurs on and after January 1, 1975, after such employer has satisfied the condition set forth in subsection (h) of R.S.43:21-19 with respect to becoming an employer; provided, however, that such contributions shall be at the rate of 1/2 of 1% of wages paid with respect to employment while the worker is in the employ of the State of New Jersey, or any governmental entity or instrumentality which is an employer as defined under R.S.43:21-19(h)(5), or is covered by an approved private plan under the "Temporary Disability Benefits Law" or while the worker is exempt from the provisions of the "Temporary Disability Benefits Law" under section 7 of that law, P.L.1948, c.110 (C.43:21-31).

(B) Effective January 1, 1978 there shall be no contributions by workers in the employ of any governmental or nongovernmental employer electing or required to make payments in lieu of contributions unless the employer is covered by the State plan under the "Temporary Disability Benefits Law" (C.43:21-25 et al.), and in that case contributions shall be at the rate of 1/2 of 1%, except that commencing July 1, 1986, workers in the employ of any nongovernmental employer electing or required to make payments in lieu of contributions shall be required to make contributions to the fund at the same rate prescribed for workers of other nongovernmental employers.

(C) (i) Notwithstanding the above provisions of this paragraph (1), during the period starting July 1, 1986 and ending December 31, 1992, each worker shall contribute to the fund 1.125% of wages paid with respect to his employment with a governmental employer electing or required to pay contributions or nongovernmental employer, including a nonprofit organization which is an employer as defined under R.S.43:21-19(h)(6), regardless of whether that nonprofit organization elects or is required to finance its benefit costs with contributions to the fund or by payments in lieu of contributions, after that employer has satisfied the conditions set forth in subsection R.S.43:21-19(h) with respect to becoming an employer. Contributions, however, shall be at the rate of 0.625% while the worker is covered by an approved private plan under the "Temporary Disability Benefits Law" or while the worker is exempt under section 7 of that law, P.L.1948, c.110 (C.43:21-31) or any other provision of that law; provided that such contributions shall be at the rate of 0.625% of wages paid with respect to employment with the State of New Jersey or any other governmental entity or instrumentality electing or required to make payments in lieu of contributions and which is covered by the State plan under the "Temporary Disability Benefits Law," except that, while the worker is exempt from the provi-

sions of the "Temporary Disability Benefits Law" under section 7 of that law, P.L.1948, c.110 (C.43:21-31) or any other provision of that law, or is covered for disability benefits by an approved private plan of the employer, the contributions to the fund shall be 0.125%.

(ii) (Deleted by amendment, P.L.1995, c.422.)

(D) Notwithstanding any other provisions of this paragraph (1), during the period starting January 1, 1993 and ending June 30, 1994, each worker shall contribute to the unemployment compensation fund 0.5% of wages paid with respect to the worker's employment with a governmental employer electing or required to pay contributions or nongovernmental employer, including a nonprofit organization which is an employer as defined under paragraph (6) of subsection (h) of R.S.43:21-19, regardless of whether that nonprofit organization elects or is required to finance its benefit costs with contributions to the fund or by payments in lieu of contributions, after that employer has satisfied the conditions set forth in subsection (h) of R.S.43:21-19 with respect to becoming an employer. No contributions, however, shall be made by the worker while the worker is covered by an approved private plan under the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et al.) or while the worker is exempt under section 7 of P.L.1948, c.110 (C.43:21-31) or any other provision of that law; provided that the contributions shall be at the rate of 0.50% of wages paid with respect to employment with the State of New Jersey or any other governmental entity or instrumentality electing or required to make payments in lieu of contributions and which is covered by the State plan under the "Temporary Disability Benefits Law," except that, while the worker is exempt from the provisions of the "Temporary Disability Benefits Law" under section 7 of that law, P.L.1948, c.110 (C.43:21-31) or any other provision of that law, or is covered for disability benefits by an approved private plan of the employer, no contributions shall be made to the fund.

Each worker shall, starting on January 1, 1996 and ending March 31, 1996, contribute to the unemployment compensation fund 0.60% of wages paid with respect to the worker's employment with a governmental employer electing or required to pay contributions or nongovernmental employer, including a nonprofit organization which is an employer as defined under paragraph (6) of subsection (h) of R.S.43:21-19, regardless of whether that nonprofit organization elects or is required to finance its benefit costs with contributions to the fund or by payments in lieu of contributions, after that employer has satisfied the conditions set forth in subsection (h) of R.S.43:21-19 with respect to becoming an employer, provided that the contributions shall be at the rate of 0.10% of wages paid with respect to employment with the

State of New Jersey or any other governmental entity or instrumentality electing or required to make payments in lieu of contributions.

Each worker shall, starting on January 1, 1998 and ending December 31, 1998, contribute to the unemployment compensation fund 0.10% of wages paid with respect to the worker's employment with a governmental employer electing or required to pay contributions or nongovernmental employer, including a nonprofit organization which is an employer as defined under paragraph (6) of subsection (h) of R.S.43:21-19, regardless of whether that nonprofit organization elects or is required to finance its benefit costs with contributions to the fund or by payments in lieu of contributions, after that employer has satisfied the conditions set forth in subsection (h) of R.S.43:21-19 with respect to becoming an employer, provided that the contributions shall be at the rate of 0.10% of wages paid with respect to employment with the State of New Jersey or any other governmental entity or instrumentality electing or required to make payments in lieu of contributions.

Each worker shall, starting on January 1, 1999 until December 31, 1999, contribute to the unemployment compensation fund 0.15% of wages paid with respect to the worker's employment with a governmental employer electing or required to pay contributions or nongovernmental employer, including a nonprofit organization which is an employer as defined under paragraph (6) of subsection (h) of R.S.43:21-19, regardless of whether that nonprofit organization elects or is required to finance its benefit costs with contributions to the fund or by payments in lieu of contributions, after that employer has satisfied the conditions set forth in subsection (h) of R.S.43:21-19 with respect to becoming an employer, provided that the contributions shall be at the rate of 0.10% of wages paid with respect to employment with the State of New Jersey or any other governmental entity or instrumentality electing or required to make payments in lieu of contributions.

Each worker shall, starting on January 1, 2000 until December 31, 2001, contribute to the unemployment compensation fund 0.20% of wages paid with respect to the worker's employment with a governmental employer electing or required to pay contributions or nongovernmental employer, including a nonprofit organization which is an employer as defined under paragraph (6) of subsection (h) of R.S.43:21-19, regardless of whether that nonprofit organization elects or is required to finance its benefit costs with contributions to the fund or by payments in lieu of contributions, after that employer has satisfied the conditions set forth in subsection (h) of R.S.43:21-19 with respect to becoming an employer, provided that the contributions shall be at the rate of 0.10% of wages paid with respect to employment with the

State of New Jersey or any other governmental entity or instrumentality electing or required to make payments in lieu of contributions.

Each worker shall, starting on January 1, 2002 until June 30, 2004, contribute to the unemployment compensation fund 0.1825% of wages paid with respect to the worker's employment with a governmental employer electing or required to pay contributions or a nongovernmental employer, including a nonprofit organization which is an employer as defined under paragraph (6) of subsection (h) of R.S.43:21-19, regardless of whether that nonprofit organization elects or is required to finance its benefit costs with contributions to the fund or by payments in lieu of contributions, after that employer has satisfied the conditions set forth in subsection (h) of R.S.43:21-19 with respect to becoming an employer, provided that the contributions shall be at the rate of 0.0825% of wages paid with respect to employment with the State of New Jersey or any other governmental entity or instrumentality electing or required to make payments in lieu of contributions.

Each worker shall, starting on and after July 1, 2004, contribute to the unemployment compensation fund 0.3825% of wages paid with respect to the worker's employment with a governmental employer electing or required to pay contributions or nongovernmental employer, including a nonprofit organization which is an employer as defined under paragraph (6) of subsection (h) of R.S.43:21-19, regardless of whether that nonprofit organization elects or is required to finance its benefit costs with contributions to the fund or by payments in lieu of contributions, after that employer has satisfied the conditions set forth in subsection (h) of R.S.43:21-19 with respect to becoming an employer, provided that the contributions shall be at the rate of 0.0825% of wages paid with respect to employment with the State of New Jersey or any other governmental entity or instrumentality electing or required to make payments in lieu of contributions.

(E) Each employer shall, notwithstanding any provision of law in this State to the contrary, withhold in trust the amount of his workers' contributions from their wages at the time such wages are paid, shall show such deduction on his payroll records, shall furnish such evidence thereof to his workers as the division or controller may prescribe, and shall transmit all such contributions, in addition to his own contributions, to the office of the controller in such manner and at such times as may be prescribed. If any employer fails to deduct the contributions of any of his workers at the time their wages are paid, or fails to make a deduction therefor at the time wages are paid for the next succeeding payroll period, he alone shall thereafter be liable for such contributions, and for the purpose of R.S.43:21-14, such contributions shall be treated as employer's contributions required from him.

(F) As used in this chapter (R.S.43:21-1 et seq.), except when the context clearly requires otherwise, the term "contributions" shall include the contributions of workers pursuant to this section.

(G) (i) Each worker shall, starting on July 1, 1994, contribute to the State disability benefits fund an amount equal to 0.50% of wages paid with respect to the worker's employment with a government employer electing or required to pay contributions to the State disability benefits fund or nongovernmental employer, including a nonprofit organization which is an employer as defined under paragraph (6) of subsection (h) of R.S.43:21-19, unless the employer is covered by an approved private disability plan or is exempt from the provisions of the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et al.) under section 7 of that law (C.43:21-31) or any other provision of that law.

(ii) Each worker shall contribute to the State disability benefits fund, in addition to any amount contributed pursuant to subparagraph (i) of this paragraph (1)(G), an amount equal to, during calendar year 2009, 0.09%, and during calendar year 2010 0.12%, of wages paid with respect to the worker's employment with any covered employer, including a governmental employer which is an employer as defined under R.S.43:21-19(h)(5), unless the employer is covered by an approved private disability plan for benefits during periods of family temporary disability leave. The contributions made pursuant to this subparagraph (ii) to the State disability benefits fund shall be deposited into an account of that fund reserved for the payment of benefits during periods of family temporary disability leave as defined in section 3 of the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-27) and for the administration of those payments and shall not be used for any other purpose. This account shall be known as the "Family Temporary Disability Leave Account." For calendar year 2011 and each subsequent calendar year, the annual rate of contribution to be paid by workers pursuant to this subparagraph (ii) shall be the rate necessary to obtain a total amount of contributions equal to 125% of the benefits paid for periods of family temporary disability leave during the immediately preceding calendar year plus an amount equal to 100% of the cost of administration of the payment of those benefits during the immediately preceding calendar year, less the amount of net assets remaining in the account as of December 31 of the immediately preceding year. Necessary administrative costs shall include the cost of an outreach program to inform employees of the availability of the benefits and the cost of issuing the reports required or permitted pursuant to section 13 of P.L.2008, c.17 (C.43:21-39.4). No monies, other than the funds in the "Family Temporary Disability Leave Account," shall be used for the

payment of benefits during periods of family temporary disability leave or for the administration of those payments, with the sole exception that, during calendar years 2008 and 2009, a total amount not exceeding $25 million may be transferred to that account from the revenues received in the State disability benefits fund pursuant to subparagraph (i) of this paragraph (1)(G) and be expended for those payments and their administration, including the administration of the collection of contributions made pursuant to this subparagraph (ii) and any other necessary administrative costs. Any amount transferred to the account pursuant to this subparagraph (ii) shall be repaid during a period beginning not later than January 1, 2011 and ending not later than December 31, 2015. No monies, other than the funds in the "Family Temporary Disability Leave Account," shall be used under any circumstances after December 31, 2009, for the payment of benefits during periods of family temporary disability leave or for the administration of those payments, including for the administration of the collection of contributions made pursuant to this subparagraph (ii).

(2) (A) (Deleted by amendment, P.L.1984, c.24.)

(B) (Deleted by amendment, P.L.1984, c.24.)

(C) (Deleted by amendment, P.L.1994, c.112.)

(D) (Deleted by amendment, P.L.1994, c.112.)

(E) (i) (Deleted by amendment, P.L.1994, c.112.)

(ii) (Deleted by amendment, P.L.1996, c.28.)

(iii) (Deleted by amendment, P.L.1994, c.112.)

(3) (A) If an employee receives wages from more than one employer during any calendar year, and either the sum of his contributions deposited in and credited to the State disability benefits fund plus the amount of his contributions, if any, required towards the costs of benefits under one or more approved private plans under the provisions of section 9 of the "Temporary Disability Benefits Law" (C.43:21-33) and deducted from his wages, or the sum of such latter contributions, if the employee is covered during such calendar year only by two or more private plans, exceeds an amount equal to 1/2 of 1% of the "wages" determined in accordance with the provisions of R.S.43:21-7(b)(3) during the calendar years beginning on or after January 1, 1976, the employee shall be entitled to a refund of the excess if he makes a claim to the controller within two years after the end of the calendar year in which the wages are received with respect to which the refund is claimed and establishes his right to such refund. Such refund shall be made by the controller from the State disability benefits fund. No interest shall be allowed or paid with respect to any such refund. The controller shall, in accordance with prescribed regulations, determine the portion of

the aggregate amount of such refunds made during any calendar year which is applicable to private plans for which deductions were made under section 9 of the "Temporary Disability Benefits Law" (C.43:21-33) such determination to be based upon the ratio of the amount of such wages exempt from contributions to such fund, as provided in subparagraph (B) of paragraph (1) of this subsection with respect to coverage under private plans, to the total wages so exempt plus the amount of such wages subject to contributions to the disability benefits fund, as provided in subparagraph (G) of paragraph (1) of this subsection. The controller shall, in accordance with prescribed regulations, prorate the amount so determined among the applicable private plans in the proportion that the wages covered by each plan bear to the total private plan wages involved in such refunds, and shall assess against and recover from the employer, or the insurer if the insurer has indemnified the employer with respect thereto, the amount so prorated. The provisions of R.S.43:21-14 with respect to collection of employer contributions shall apply to such assessments. The amount so recovered by the controller shall be paid into the State disability benefits fund.

(B) If an employee receives wages from more than one employer during any calendar year, and the sum of his contributions deposited in the "Family Temporary Disability Leave Account" of the State disability benefits fund plus the amount of his contributions, if any, required towards the costs of family temporary disability leave benefits under one or more approved private plans under the provisions of the "Temporary Disability Benefits Law" (C.43:21-25 et al.) and deducted from his wages, exceeds an amount equal to, during calendar year 2009, 0.09% of the "wages" determined in accordance with the provisions of R.S.43:21-7(b)(3), or during calendar year 2010, 0.12% of those wages, or, during calendar year 2011 or any subsequent calendar year, the percentage of those wages set by the annual rate of contribution determined by the Commissioner of Labor and Workforce Development pursuant to subparagraph (ii) of paragraph(1)(G) of this subsection (d), the employee shall be entitled to a refund of the excess if he makes a claim to the controller within two years after the end of the calendar year in which the wages are received with respect to which the refund is claimed and establishes his right to the refund. The refund shall be made by the controller from the "Family Temporary Disability Leave Account" of the State disability benefits fund. No interest shall be allowed or paid with respect to any such refund. The controller shall, in accordance with prescribed regulations, determine the portion of the aggregate amount of the refunds made during any calendar year which is applicable to private plans for which deductions were made under section 9 of the "Temporary

Disability Benefits Law" (C.43:21-33), with that determination based upon the ratio of the amount of such wages exempt from contributions to the fund, as provided in paragraph (1)(B) of this subsection (d) with respect to coverage under private plans, to the total wages so exempt plus the amount of such wages subject to contributions to the "Family Temporary Disability Leave Account" of the State disability benefits fund, as provided in subparagraph (ii) of paragraph (1)(G) of this subsection (d). The controller shall, in accordance with prescribed regulations, prorate the amount so determined among the applicable private plans in the proportion that the wages covered by each plan bear to the total private plan wages involved in such refunds, and shall assess against and recover from the employer, or the insurer if the insurer has indemnified the employer with respect thereto, the prorated amount. The provisions of R.S.43:21-14 with respect to collection of employer contributions shall apply to such assessments. The amount so recovered by the controller shall be paid into the "Family Temporary Disability Leave Account" of the State disability benefits fund.

(4) If an individual does not receive any wages from the employing unit which for the purposes of this chapter (R.S.43:21-1 et seq.) is treated as his employer, or receives his wages from some other employing unit, such employer shall nevertheless be liable for such individual's contributions in the first instance; and after payment thereof such employer may deduct the amount of such contributions from any sums payable by him to such employing unit, or may recover the amount of such contributions from such employing unit, or, in the absence of such an employing unit, from such individual, in a civil action; provided proceedings therefor are instituted within three months after the date on which such contributions are payable. General rules shall be prescribed whereby such an employing unit may recover the amount of such contributions from such individuals in the same manner as if it were the employer.

(5) Every employer who has elected to become an employer subject to this chapter (R.S.43:21-1 et seq.), or to cease to be an employer subject to this chapter (R.S.43:21-1 et seq.), pursuant to the provisions of R.S.43:21-8, shall post and maintain printed notices of such election on his premises, of such design, in such numbers, and at such places as the director may determine to be necessary to give notice thereof to persons in his service.

(6) Contributions by workers, payable to the controller as herein provided, shall be exempt from garnishment, attachment, execution, or any other remedy for the collection of debts.

(e) Contributions by employers to State disability benefits fund.

(1) Except as hereinafter provided, each employer shall, in addition to the contributions required by subsections (a), (b), and (c) of this section, contribute 1/2 of 1% of the wages paid by such employer to workers with respect to employment unless he is not a covered employer as defined in subsection (a) of section 3 of the "Temporary Disability Benefits Law" (C.43:21-27 (a)), except that the rate for the State of New Jersey shall be 1/10 of 1% for the calendar year 1980 and for the first six months of 1981. Prior to July 1, 1981 and prior to July 1 each year thereafter, the controller shall review the experience accumulated in the account of the State of New Jersey and establish a rate for the next following fiscal year which, in combination with worker contributions, will produce sufficient revenue to keep the account in balance; except that the rate so established shall not be less than 1/10 of 1%. Such contributions shall become due and be paid by the employer to the controller for the State disability benefits fund as established by law, in accordance with such regulations as may be prescribed, and shall not be deducted, in whole or in part, from the remuneration of individuals in his employ. In the payment of any contributions, a fractional part of a cent shall be disregarded unless it amounts to $0.005 or more, in which case it shall be increased to $0.01.

(2) During the continuance of coverage of a worker by an approved private plan of disability benefits under the "Temporary Disability Benefits Law," the employer shall be exempt from the contributions required by paragraph (1) above with respect to wages paid to such worker.

(3) (A) The rates of contribution as specified in paragraph (1) above shall be subject to modification as provided herein with respect to employer contributions due on and after July 1, 1951.

(B) A separate disability benefits account shall be maintained for each employer required to contribute to the State disability benefits fund and such account shall be credited with contributions deposited in and credited to such fund with respect to employment occurring on and after January 1, 1949. Each employer's account shall be credited with all contributions paid on or before January 31 of any calendar year on his own behalf and on behalf of individuals in his service with respect to employment occurring in preceding calendar years; provided, however, that if January 31 of any calendar year falls on a Saturday or Sunday an employer's account shall be credited as of January 31 of such calendar year with all the contributions which he has paid on or before the next succeeding day which is not a Saturday or Sunday. But nothing in this act shall be construed to grant any employer or individuals in his service prior claims or rights to the amounts paid by him to the fund either on his own behalf or on behalf of such indi-

viduals. Benefits paid to any covered individual in accordance with Article III of the "Temporary Disability Benefits Law" on or before December 31 of any calendar year with respect to disability in such calendar year and in preceding calendar years shall be charged against the account of the employer by whom such individual was employed at the commencement of such disability or by whom he was last employed, if out of employment.

(C) The controller may prescribe regulations for the establishment, maintenance, and dissolution of joint accounts by two or more employers, and shall, in accordance with such regulations and upon application by two or more employers to establish such an account, or to merge their several individual accounts in a joint account, maintain such joint account as if it constituted a single employer's account.

(D) Prior to July 1 of each calendar year, the controller shall make a preliminary determination of the rate of contribution for the 12 months commencing on such July 1 for each employer subject to the contribution requirements of this subsection (e).

(1) Such preliminary rate shall be 1/2 of 1% unless on the preceding January 31 of such year such employer shall have been a covered employer who has paid contributions to the State disability benefits fund with respect to employment in the three calendar years immediately preceding such year.

(2) If the minimum requirements in subparagraph (D) (1) above have been fulfilled and the credited contributions exceed the benefits charged by more than $500.00, such preliminary rate shall be as follows:

(i) 2/10 of 1% if such excess over $500.00 exceeds 1% but is less than 1 1/4% of his average annual payroll as defined in this chapter (R.S.43:21-1 et seq.);

(ii) 15/100 of 1% if such excess over $500.00 equals or exceeds 1 1/4% but is less than 1 1/2% of his average annual payroll;

(iii)1/10 of 1% if such excess over $500.00 equals or exceeds 1 1/2% of his average annual payroll.

(3) If the minimum requirements in subparagraph (D) (1) above have been fulfilled and the contributions credited exceed the benefits charged but by not more than $500.00 plus 1% of his average annual payroll, or if the benefits charged exceed the contributions credited but by not more than $500.00, the preliminary rate shall be 1/4 of 1%.

(4) If the minimum requirements in subparagraph (D) (1) above have been fulfilled and the benefits charged exceed the contributions credited by more than $500.00, such preliminary rate shall be as follows:

(i) 35/100 of 1% if such excess over $500.00 is less than 1/4 of 1% of his average annual payroll;

(ii) 45/100 of 1% if such excess over $500.00 equals or exceeds 1/4 of 1% but is less than 1/2 of 1% of his average annual payroll;

(iii) 55/100 of 1% if such excess over $500.00 equals or exceeds 1/2 of 1% but is less than 3/4 of 1% of his average annual payroll;

(iv) 65/100 of 1% if such excess over $500.00 equals or exceeds 3/4 of 1% but is less than 1% of his average annual payroll;

(v) 75/100 of 1% if such excess over $500.00 equals or exceeds 1% of his average annual payroll.

(5) Determination of the preliminary rate as specified in subparagraphs (D)(2), (3) and (4) above shall be subject, however, to the condition that it shall in no event be decreased by more than 1/10 of 1% of wages or increased by more than 2/10 of 1% of wages from the preliminary rate determined for the preceding year in accordance with subparagraphs (D) (1), (2), (3) or (4), whichever shall have been applicable.

(E) (1) Prior to July 1 of each calendar year the controller shall determine the amount of the State disability benefits fund as of December 31 of the preceding calendar year, increased by the contributions paid thereto during January of the current calendar year with respect to employment occurring in the preceding calendar year. If such amount exceeds the net amount withdrawn from the unemployment trust fund pursuant to section 23 of the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-47) plus the amount at the end of such preceding calendar year of the unemployment disability account as defined in section 22 of said law (C.43:21-46), such excess shall be expressed as a percentage of the wages on which contributions were paid to the State disability benefits fund on or before January 31 with respect to employment in the preceding calendar year.

(2) The controller shall then make a final determination of the rates of contribution for the 12 months commencing July 1 of such year for employers whose preliminary rates are determined as provided in subparagraph (D) hereof, as follows:

(i) If the percentage determined in accordance with subparagraph (E)(1) of this paragraph equals or exceeds 1 1/4%, the final employer rates shall be the preliminary rates determined as provided in subparagraph (D) hereof, except that if the employer's preliminary rate is determined as provided in subparagraph (D)(2) or subparagraph (D)(3) hereof, the final employer rate shall be the preliminary employer rate decreased by such percentage of excess taken to the nearest 5/100 of 1%, but in no case shall such final rate be less than 1/10 of 1%.

(ii) If the percentage determined in accordance with subparagraph (E)(1) of this paragraph equals or exceeds 3/4 of 1% and is less than 1 1/4 of 1%, the final employer rates shall be the preliminary employer rates.

(iii) If the percentage determined in accordance with subparagraph (E)(1) of this paragraph is less than 3/4 of 1%, but in excess of 1/4 of 1%, the final employer rates shall be the preliminary employer rates determined as provided in subparagraph (D) hereof increased by the difference between 3/4 of 1% and such percentage taken to the nearest 5/100 of 1%; provided, however, that no such final rate shall be more than 1/4 of 1% in the case of an employer whose preliminary rate is determined as provided in subparagraph (D)(2) hereof, more than 1/2 of 1% in the case of an employer whose preliminary rate is determined as provided in subparagraph (D)(1) and subparagraph (D)(3) hereof, nor more than 3/4 of 1% in the case of an employer whose preliminary rate is determined as provided in subparagraph (D)(4) hereof.

(iv) If the amount of the State disability benefits fund determined as provided in subparagraph (E)(1) of this paragraph is equal to or less than 1/4 of 1%, then the final rate shall be 2/5 of 1% in the case of an employer whose preliminary rate is determined as provided in subparagraph (D)(2) hereof, 7/10 of 1% in the case of an employer whose preliminary rate is determined as provided in subparagraph (D)(1) and subparagraph (D)(3) hereof, and 1.1% in the case of an employer whose preliminary rate is determined as provided in subparagraph (D)(4) hereof. Notwithstanding any other provision of law or any determination made by the controller with respect to any 12-month period commencing on July 1, 1970, the final rates for all employers for the period beginning January 1, 1971, shall be as set forth herein.

(F) Notwithstanding any other provisions of this subsection (e), the rate of contribution paid to the State disability benefits fund by each covered employer as defined in paragraph (1) of subsection (a) of section 3 of P.L.1948, c.110 (C.43:21-27), shall be determined as if:

(i) No disability benefits have been paid with respect to periods of family temporary disability leave;

(ii) No worker paid any contributions to the State disability benefits fund pursuant to paragraph (1)(G)(ii) of subsection (d) of this section; and

(iii) No amounts were transferred from the State disability benefits fund to the "Family Temporary Disability Leave Account" pursuant to paragraph (1)(G)(ii) of subsection (d) of this section.

2. R.S.43:21-5 is amended to read as follows:

Disqualification for benefits.

43:21-5. An individual shall be disqualified for benefits:

(a) For the week in which the individual has left work voluntarily without good cause attributable to such work, and for each week thereafter until the individual becomes reemployed and works eight weeks in employment, which may include employment for the federal government, and has earned in employment at least ten times the individual's weekly benefit rate, as determined in each case. This subsection shall apply to any individual seeking unemployment benefits on the basis of employment in the production and harvesting of agricultural crops, including any individual who was employed in the production and harvesting of agricultural crops on a contract basis and who has refused an offer of continuing work with that employer following the completion of the minimum period of work required to fulfill the contract.

(b) For the week in which the individual has been suspended or discharged for misconduct connected with the work, and for the seven weeks which immediately follow that week, as determined in each case.

For the week in which the individual has been suspended or discharged for severe misconduct connected with the work, and for each week thereafter until the individual becomes reemployed and works four weeks in employment, which may include employment for the federal government, and has earned in employment at least six times the individual's weekly benefit rate, as determined in each case. Examples of severe misconduct include, but are not necessarily limited to, the following: repeated violations of an employer's rule or policy, repeated lateness or absences after a written warning by an employer, falsification of records, physical assault or threats that do not constitute gross misconduct as defined in this section, misuse of benefits, misuse of sick time, abuse of leave, theft of company property, excessive use of intoxicants or drugs on work premises, theft of time, or where the behavior is malicious and deliberate but is not considered gross misconduct as defined in this section.

In the event the discharge should be rescinded by the employer voluntarily or as a result of mediation or arbitration, this subsection (b) shall not apply, provided, however, an individual who is restored to employment with back pay shall return any benefits received under this chapter for any week of unemployment for which the individual is subsequently compensated by the employer.

If the discharge was for gross misconduct connected with the work because of the commission of an act punishable as a crime of the first, second, third or fourth degree under the "New Jersey Code of Criminal Justice,"

N.J.S.2C:1-1 et seq., the individual shall be disqualified in accordance with the disqualification prescribed in subsection (a) of this section and no benefit rights shall accrue to any individual based upon wages from that employer for services rendered prior to the day upon which the individual was discharged.

The director shall insure that any appeal of a determination holding the individual disqualified for gross misconduct in connection with the work shall be expeditiously processed by the appeal tribunal.

(c) If it is found that the individual has failed, without good cause, either to apply for available, suitable work when so directed by the employment office or the director or to accept suitable work when it is offered, or to return to the individual's customary self-employment (if any) when so directed by the director. The disqualification shall continue for the week in which the failure occurred and for the three weeks which immediately follow that week, as determined:

(1) In determining whether or not any work is suitable for an individual, consideration shall be given to the degree of risk involved to health, safety, and morals, the individual's physical fitness and prior training, experience and prior earnings, the individual's length of unemployment and prospects for securing local work in the individual's customary occupation, and the distance of the available work from the individual's residence. In the case of work in the production and harvesting of agricultural crops, the work shall be deemed to be suitable without regard to the distance of the available work from the individual's residence if all costs of transportation are provided to the individual and the terms and conditions of hire are as favorable or more favorable to the individual as the terms and conditions of the individual's base year employment.

(2) Notwithstanding any other provisions of this chapter, no work shall be deemed suitable and benefits shall not be denied under this chapter to any otherwise eligible individual for refusing to accept new work under any of the following conditions: the position offered is vacant due directly to a strike, lockout, or other labor dispute; the remuneration, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality; or, the individual, as a condition of being employed, would be required to join a company union or to resign from or refrain from joining any bona fide labor organization.

(d) If it is found that this unemployment is due to a stoppage of work which exists because of a labor dispute at the factory, establishment or other premises at which the individual is or was last employed.

(1) No disqualification under this subsection (d) shall apply if it is shown that:

(a) The individual is not participating in or financing or directly interested in the labor dispute which caused the stoppage of work; and

(b) The individual does not belong to a grade or class of workers of which, immediately before the commencement of the stoppage, there were members employed at the premises at which the stoppage occurs, any of whom are participating in or financing or directly interested in the dispute; provided that if in any case in which (a) or (b) above applies, separate branches of work which are commonly conducted as separate businesses in separate premises are conducted in separate departments of the same premises, each department shall, for the purpose of this subsection, be deemed to be a separate factory, establishment, or other premises.

(2) For any claim for a period of unemployment commencing on or after December 1, 2004, no disqualification under this subsection (d) shall apply if it is shown that the individual has been prevented from working by the employer, even though the individual's recognized or certified majority representative has directed the employees in the individual's collective bargaining unit to work under the preexisting terms and conditions of employment, and the employees had not engaged in a strike immediately before being prevented from working.

(e) For any week with respect to which the individual is receiving or has received remuneration in lieu of notice.

(f) For any week with respect to which or a part of which the individual has received or is seeking unemployment benefits under an unemployment compensation law of any other state or of the United States; provided that if the appropriate agency of the other state or of the United States finally determines that the individual is not entitled to unemployment benefits, this disqualification shall not apply.

(g) (1) For a period of one year from the date of the discovery by the division of the illegal receipt or attempted receipt of benefits contrary to the provisions of this chapter, as the result of any false or fraudulent representation; provided that any disqualification may be appealed in the same manner as any other disqualification imposed hereunder; and provided further that a conviction in the courts of this State arising out of the illegal receipt or attempted receipt of these benefits in any proceeding instituted against the individual under the provisions of this chapter or any other law of this State shall be conclusive upon the appeals tribunal and the board of review.

(2) A disqualification under this subsection shall not preclude the prosecution of any civil, criminal or administrative action or proceeding to

enforce other provisions of this chapter for the assessment and collection of penalties or the refund of any amounts collected as benefits under the provisions of R.S.43:21-16, or to enforce any other law, where an individual obtains or attempts to obtain by theft or robbery or false statements or representations any money from any fund created or established under this chapter or any negotiable or nonnegotiable instrument for the payment of money from these funds, or to recover money erroneously or illegally obtained by an individual from any fund created or established under this chapter.

(h) (1) Notwithstanding any other provisions of this chapter (R.S.43:21-1 et seq.), no otherwise eligible individual shall be denied benefits for any week because the individual is in training approved under section 236(a)(1) of the "Trade Act of 1974," Pub.L.93-618 (19 U.S.C. s.2296 (a)(1)) nor shall the individual be denied benefits by reason of leaving work to enter this training, provided the work left is not suitable employment, or because of the application to any week in training of provisions in this chapter (R.S.43:21-1 et seq.), or any applicable federal unemployment compensation law, relating to availability for work, active search for work, or refusal to accept work.

(2) For purposes of this subsection (h), the term "suitable" employment means, with respect to an individual, work of a substantially equal or higher skill level than the individual's past adversely affected employment, as defined for purposes of the "Trade Act of 1974," Pub.L.93-618 (19 U.S.C. s.2101 et seq.) and wages for this work at not less than 80% of the individual's average weekly wage, as determined for the purposes of the "Trade Act of 1974."

(i) For benefit years commencing after June 30, 1984, for any week in which the individual is a student in full attendance at, or on vacation from, an educational institution, as defined in subsection (y) of R.S.43:21-19; except that this subsection shall not apply to any individual attending a training program approved by the division to enhance the individual's employment opportunities, as defined under subsection (c) of R.S.43:21-4; nor shall this subsection apply to any individual who, during the individual's base year, earned sufficient wages, as defined under subsection (e) of R.S.43:21-4, while attending an educational institution during periods other than established and customary vacation periods or holiday recesses at the educational institution, to establish a claim for benefits. For purposes of this subsection, an individual shall be treated as a full-time student for any period:

(1) During which the individual is enrolled as a full-time student at an educational institution, or

(2) Which is between academic years or terms, if the individual was enrolled as a full-time student at an educational institution for the immediately preceding academic year or term.

(j) Notwithstanding any other provisions of this chapter (R.S.43:21-1 et seq.), no otherwise eligible individual shall be denied benefits because the individual left work or was discharged due to circumstances resulting from the individual being a victim of domestic violence as defined in section 3 of P.L.1991, c.261 (C.2C:25-19). No employer's account shall be charged for the payment of benefits to an individual who left work due to circumstances resulting from the individual being a victim of domestic violence.

For the purposes of this subsection (j), the individual shall be treated as being a victim of domestic violence if the individual provides one or more of the following:

(1) A restraining order or other documentation of equitable relief issued by a court of competent jurisdiction;

(2) A police record documenting the domestic violence;

(3) Documentation that the perpetrator of the domestic violence has been convicted of one or more of the offenses enumerated in section 3 of P.L.1991, c.261 (C.2C:25-19);

(4) Medical documentation of the domestic violence;

(5) Certification from a certified Domestic Violence Specialist or the director of a designated domestic violence agency that the individual is a victim of domestic violence; or

(6) Other documentation or certification of the domestic violence provided by a social worker, member of the clergy, shelter worker or other professional who has assisted the individual in dealing with the domestic violence.

For the purposes of this subsection (j):

"Certified Domestic Violence Specialist" means a person who has fulfilled the requirements of certification as a Domestic Violence Specialist established by the New Jersey Association of Domestic Violence Professionals; and "designated domestic violence agency" means a county-wide organization with a primary purpose to provide services to victims of domestic violence, and which provides services that conform to the core domestic violence services profile as defined by the Division of Youth and Family Services in the Department of Children and Families and is under contract with the division for the express purpose of providing such services.

(k) Notwithstanding any other provisions of this chapter (R.S.43:21-1 et seq.), no otherwise eligible individual shall be denied benefits for any

week in which the individual left work voluntarily and without good cause attributable to the work, if the individual left work to accompany his or her spouse who is an active member of the United States Armed Forces, as defined in N.J.S.38A:1-1(g), to a new place of residence outside the State, due to the armed forces member's transfer to a new assignment in a different geographical location outside the State, and the individual moves to the new place of residence not more than nine months after the spouse is transferred, and upon arrival at the new place of residence the individual was in all respects available for suitable work. No employer's account shall be charged for the payment of benefits to an individual who left work under the circumstances contained in this subsection (k), except that this shall not be construed as relieving the State of New Jersey and any other governmental entity or instrumentality or nonprofit organization electing or required to make payments in lieu of contributions from its responsibility to make all benefit payments otherwise required by law and from being charged for those benefits as otherwise required by law.

3. a. There is created a task force to be known as the "New Jersey Unemployment Insurance Task Force," which shall be an independent body in, but not of, the Department of Labor and Workforce Development. The task force shall consist of 12 members, including:

(1) Six non-voting members as follows: the Chairpersons of the Senate Labor committee and the Assembly Labor Committee, ex officio, a Senator nominated by the Minority Leader of the Senate, a member of the General Assembly nominated by the Minority Leader of the General Assembly, the Commissioner of Labor and Workforce Development, ex officio, an individual appointed by the Governor who has expertise in employment, unemployment and unemployment insurance programs; and

(2) Six voting members appointed by the Governor. Three members to be appointed by the Governor from the following organizations: the New Jersey State Chamber of Commerce, the New Jersey Business and Industry Association, the New Jersey branch of the National Federation of Independent Business, the New Jersey Food Council, the New Jersey Restaurant Association, or the New Jersey Commerce and Industry Association. Three members to be appointed by the Governor from the following organizations: the New Jersey State AFL-CIO, the New Jersey State Building Trades Council, the American Federation of State, County and Municipal Employees, the Mechanical and Allied Crafts Council of New Jersey, the New Jersey State Council of the Service Employees International Union, or the New Jersey Regional Council of Carpenters.

b. The task force shall have co-chairs who are elected by the voting members: one co-chair shall be from the New Jersey State Chamber of Commerce, the New Jersey Business and Industry Association, the New Jersey branch of the National Federation of Independent Business, the New Jersey Food Council, the New Jersey Restaurant Association, or the New Jersey Commerce and Industry Association; and one co-chair shall be from the New Jersey State AFL-CIO, the New Jersey State Building Trades Council, the New Jersey State Council of the Service Employees International Union, the American Federation of State, County and Municipal Employees, the Mechanical and Allied Crafts Council of New Jersey, or the New Jersey Regional Council of Carpenters. Members shall be appointed as soon as practicable. Members shall be appointed for three-year terms and may be re-appointed for any number of terms. Any member of the task force who is not a legislator may be removed from office by the Governor, for cause, upon notice and opportunity to be heard. Vacancies shall be filled in the same manner as the original appointment for the balance of the unexpired term. A member shall continue to serve upon the expiration of his term until a successor is appointed and qualified, unless the member is removed by the Governor.

c. Action may be taken by the task force by an affirmative vote of a majority of its voting members. A majority of the voting members and a majority of the non-voting members of the task force shall constitute a quorum for the transaction of any business, for the performance of any duty, or for the exercise of any power of the task force.

d. Members of the task force shall serve without compensation, but may be reimbursed for the actual and necessary expenses incurred in the performance of their duties as members of the task force within the limits of funds appropriated or otherwise made available for that purpose.

4. a. The task force shall study and assess the current unemployment insurance crisis and recommend how the State can stabilize the unemployment insurance fund. Specifically, the work of the task force shall include, but not necessarily be limited to, an evaluation of the following: eligibility standards; benefit levels; certain definitions, such as "suitable work;" the statutory matrix for payroll tax triggers; contributions and the experience rating table; collections of overpayments of unemployment; methods used in order to get individuals off unemployment insurance benefits; the statutory and regulatory framework for the treatment of misconduct; and other areas relevant to the short-term and long-term solvency of the unemployment insurance fund.

b. In furtherance of its evaluation, the task force may hold public meetings or hearings within the State on any matter or matters related to the provisions of this act, and call to its assistance and avail itself of the services of the Rutgers School of Management and Labor Relations, the John J. Heldrich Center for Workforce Development, and the employees of any State department, board, task force or agency which the task force determines possesses relevant data, analytical and professional expertise or other resources which may assist the task force in discharging its duties under this act. Each department, board, commission or agency of this State is hereby directed, to the extent not inconsistent with law, to cooperate fully with the task force and to furnish such information and assistance as is necessary to accomplish the purposes of this act. The task force shall submit a written report of its findings regarding the subjects of its review and evaluation of the unemployment insurance program, including any recommendations of the task force regarding possible legislation or changes in administrative procedures based on its review and evaluation, to the Governor and to the Legislature by October 1, 2010, and for three years thereafter, unless an extension is deemed necessary and appropriate by the Governor, who shall immediately review each task force report upon its receipt. The task force created under the provisions of this act shall expire upon the issuance of the task force final report issued by October 1, 2013.

Repealer.

5. Section 16 of P.L.1948, c.446 (C.34:1A-16) is hereby repealed.

6. This act shall take effect immediately.

Approved July 1, 2010.

CHAPTER 38

AN ACT concerning expenditures from the Airport Safety Fund, and amending various parts of the statutory law.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Section 1 of P.L.1953, c.234 (C.6:1-44.1) is amended to read as follows:

C.6:1-44.1 Licenses or certificates for operation of aeronautical facilities and fixed base operations; expiration; fee.

1. The commissioner shall have the power to grant an appropriate license or certificate upon application properly made and the fee therefor paid for activities and operations that comply with the requirements of this act.

Licenses or certificates (excepting those issued on a temporary basis) required by regulation for the operation of aeronautical facilities and fixed base operations are issued for a period of one year. Such licenses may be annually renewed for a period of one year, upon satisfaction of requirements set by the applicable rules and regulations appropriate to the license or certificate sought. Licenses or certificates issued on a temporary basis shall be valid for a period of less than one year and continue in effect until a specified expiration date, by request for withdrawal of license or certificate by the initial applicant, or by order of the commissioner. Rules, procedures, and application fees for the issuing of all licenses and certificates shall be established by the commissioner through regulation. Each applicant for license or certificate, be it initial, renewal, or temporary, shall be required to pay a nonrebatable fee to the Division of Aeronautics in the Department of Transportation.

All such fees shall be paid to the State Treasurer by the division for deposit in the Airport Safety Fund established by section 4 of the "New Jersey Airport Safety, Security and Improvement Act," P.L.1983, c.264 (C.6:1-89 et seq.).

2. Section 7 of P.L.1971, c.118 (C.6:1-59.1) is amended to read as follows:

C.6:1-59.1 Violations or failure to have license; penalties and costs.

7. Any person violating any provisions of this act or any rule, regulation or order authorized hereby and any person who operates, conducts, uses or permits others to operate, conduct, use or employ any aeronautical facility, operation or activity which is required to be licensed, without said license being previously issued or renewed as required, shall be liable to a penalty of up to $1,000.00, which may be collected and enforced in an action by the Division of Aeronautics in the name of the State in any municipal court or in any other court of competent jurisdiction in a summary manner, without a jury, in accordance with the procedure prescribed in the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). All penalties and costs collected in such actions shall be accounted for by the judge and forwarded to the Division of Aeronautics, which shall trans-

mit the same to the State Treasurer, who shall credit such moneys to the Airport Safety Fund established by section 4 of the "New Jersey Airport Safety, Security and Improvement Act," P.L.1983, c.264 (C.6:1-92).

3. Section 1 of P.L.1983, c.264 (C.6:1-89) is amended to read as follows:

C.6:1-89 Short title.

1. This act shall be known and may be cited as the "New Jersey Airport Safety, Security and Improvement Act."

4. Section 9 of P.L.1983, c.264 (C.6:1-93) is amended to read as follows:

C.6:1-93 Permitted uses of Airport Safety Fund.

9. The commissioner is hereby authorized to expend moneys from the Airport Safety Fund established by section 4 of the "New Jersey Airport Safety, Security and Improvement Act," P.L.1983, c.264 (C.6:1-92), for the following purposes:

a. To provide grants to publicly and privately owned, unrestricted, public use airports to obtain federal funds for airport assistance. The commissioner is authorized to provide up to 50% of the required local match; except that the commissioner is authorized to provide up to 100% of the required local match, when he deems that an emergency situation exists.

b. To provide grants or loans, or both, to publicly owned and private, unrestricted, public use airports for safety projects, including but not limited to engineering, planning, construction and rehabilitation of lighting, runways, aprons, airport approach aids and obstruction removals, and for security, capital improvement, informational and educational projects, and revenue and nonrevenue producing capital improvement and development projects.

c. To provide grants or loans, or both, to publicly owned airports or counties or municipalities to acquire airports or lands, rights in land and easements, including aviation easements necessary for clear zones or clear areas, which are owned, controlled or operated, or to be owned, controlled or operated by municipalities, counties or other political subdivisions of this State.

d. To acquire lands or rights in lands adjacent to privately owned, public use airports, which are found necessary for airport or air safety purposes, and while retaining title to that land or rights in land, the commissioner may lease those lands or rights to airports or airport authorities for use in the furtherance of airport, air safety, or air transportation purposes. The commissioner shall establish terms in any such lease so as to protect the State's interest in the promotion of aviation and the State's investment in lands and property.

e. To provide loans to unrestricted public use airports and New Jersey based aviation enterprises, in amounts not to exceed $200,000 per loan, for such specific purposes, not included among those set forth in subsection b. of this section, and on such terms and conditions as may be determined by the commissioner pursuant to this subsection. Loans pursuant to this subsection may be provided for purposes or projects which effectuate the New Jersey Airport Safety, Security and Improvement Act and the duties and powers of the commissioner set forth in section 5 of P.L.1966, c.301 (C.27:1A-5). In providing such loans, the commissioner shall establish loan security terms so as to protect the State's interests. Loans shall not be provided pursuant to this subsection to airports or enterprises for the purpose of expanding, preparing for an expansion or completing an expansion of the physical capabilities of the airport, including but not limited to expansion of the runways, to support a greater number of flights or larger aircraft than that which the airport is able to handle within the safety parameters applicable to that airport at the time of the loan application, except that a loan may be provided to restore the physical capabilities of an airport, which capabilities have been reduced as a result of insufficient maintenance and repair, to the capabilities that existed when the airport was in a state of full repair and fully maintained.

f. To establish, operate, or provide any program or activity which promotes aviation safety, promotes aviation education, or provides for the promotion of aeronautics. In no fiscal year shall the amount of moneys expended pursuant to this subsection exceed 10 percent of the total amount of moneys appropriated in that fiscal year to the Airport Safety Fund, established in the General Fund pursuant to section 4 of P.L.1983, c.264 (C.6:1-92).

5. Section 15 of P.L.1995, c.108 (C.27:1B-21.8) is amended to read as follows:

C.27:1B-21.8 Credits to Airport Safety Fund.

15. Each year a nonlapsing sum of money shall be appropriated from funds held in the Special Transportation Fund, established pursuant to section 21 of P.L.1984, c.73 (C.27:1B-21), and credited to the Airport Safety Fund, established in the General Fund pursuant to section 4 of P.L.1983, c.264 (C.6:1-92), for use for any purpose pursuant to the "New Jersey Airport Safety, Security and Improvement Act," P.L.1983, c.264 (C.6:1-89 et al.) and that sum shall be included in the annual report of projects prepared pursuant to section 22 of P.L.1984, c.73 (C.27:1B-22). Funds so appropriated shall no longer be subject to the provisions and limitations of chapter

1B of Title 27 of the Revised Statutes, but instead shall be subject to the provisions and limitations of P.L.1983, c.264 (C.6:1-89 et al.).

6. R.S.54:39-66 is amended to read as follows:

Motor fuel tax refunds.

54:39-66. Any person:

(1) Who shall use any fuels as herein defined for any of the following purposes:

(a) (Deleted by amendment.)

(b) Autobuses while being operated over the highways of this State in those municipalities to which the operator has paid a monthly franchise tax for the use of the streets therein under the provisions of R.S.48:16-25 and autobuses while being operated over the highways of this State in a regular route bus operation as defined in R.S.48:4-1 and under operating authority conferred pursuant to R.S.48:4-3, or while providing bus service under a contract with the New Jersey Transit Corporation or under a contract with a county for special or rural transportation bus service subject to the jurisdiction of the New Jersey Transit Corporation pursuant to P.L.1979, c.150 (C.27:25-1 et seq.), and autobuses providing commuter bus service which receive or discharge passengers in New Jersey. For the purpose of this paragraph "commuter bus service" means regularly scheduled passenger service provided by motor vehicles whether within or across the geographical boundaries of New Jersey and utilized by passengers using reduced fare, multiple ride or commutation tickets and shall not include charter bus operations or special bus operations as defined in R.S.48:4-1 or buses operated for the transportation of enrolled children and adults referred to in subsection c. of R.S.48:4-1,

(c) Agricultural tractors not operated on a public highway,

(d) Farm machinery,

(e) Aircraft,

(f) Ambulances,

(g) Rural free delivery carriers in the dispatch of their official business,

(h) Such vehicles as run only on rails or tracks, and such vehicles as run in substitution therefor,

(i) Such highway motor vehicles as are operated exclusively on private property,

(j) Motor boats or motor vessels used exclusively for or in the propagation, planting, preservation and gathering of oysters and clams in the tidal waters of this State,

(k) Motor boats or motor vessels used exclusively for commercial fishing,

(l) Motor boats or motor vessels, while being used for hire for fishing parties or being used for sightseeing or excursion parties,

(m) Cleaning,

(n) Fire engines and fire-fighting apparatus,

(o) Stationary machinery and vehicles or implements not designed for the use of transporting persons or property on the public highways,

(p) Heating and lighting devices,

(q) Fuels previously taxed under this chapter and later exported from the State of New Jersey to any other state or country; provided, proof satisfactory to the director of such exportation is submitted,

(r) Motor boats or motor vessels used exclusively for Sea Scout training by a duly chartered unit of the Boy Scouts of America,

(s) Emergency vehicles used exclusively by volunteer first-aid or rescue squads, and

(t) Diesel fuel, the increase in the tax thereof as imposed by P.L.1984, c.73, as used by passenger automobiles and motor vehicles of less than 5,000 pounds gross weight; and

(2) Who shall have paid the tax for such fuels, hereby required to be paid, shall be reimbursed and repaid the amount of tax so paid upon presenting to the director an application for such reimbursement or repayment, in form prescribed by the director, which application shall be verified by a declaration of the applicant that the statements contained therein are true. Such application for reimbursement or repayment shall be supported by an invoice, or invoices, showing the name and address of the person from whom purchased, the name of the purchaser, the date of purchase, the number of gallons purchased, the price paid per gallon, and an acknowledgment by the seller that payment of the cost of the fuel, including the tax thereon, has been made. Such invoice, or invoices, shall be legibly written and shall be void if any corrections or erasures shall appear on the face thereof.

The director may, in his discretion, permit a distributor entitled to a refund under the provisions of this section to take credit therefor, in lieu of such refund, in such manner as the director may require, on a report filed pursuant to R.S.54:39-27.

Any refund granted to a person under subsection (1)(e), for fuel used in aircraft, shall be paid from the moneys deposited in the Airport Safety Fund established by section 4 of the "New Jersey Airport Safety, Security and Improvement Act," P.L.1983, c.264 (C.6:1-92). Such refunds shall be granted on an annual basis.

7. R.S.54:39-71 is amended to read as follows:

Distribution of moneys.

54:39-71. Except as provided in R.S.54:39-30, moneys received in accordance with this chapter, other than taxes paid on aircraft fuels, shall be accounted for and forwarded by the Director of the Division of Taxation to the State Treasurer, to be paid out and distributed by him as hereinafter in this article provided. Moneys received from taxes on fuel used in aircraft, pursuant to R.S.54:39-27 and section 7 of the "New Jersey Airport Safety, Security and Improvement Act," P.L.1983, c.264 (C.54:39-27a) shall be accounted for and forwarded by the Director of the Division of Taxation to the State Treasurer, who shall credit these payments to the Airport Safety Fund established by section 4 of the "New Jersey Airport Safety, Security and Improvement Act," P.L.1983, c.264 (C.6:1-92).

8. This act shall take effect immediately.

Approved July 2, 2010.

CHAPTER 39

AN ACT concerning the position of treasurer of school moneys, supplementing chapter 17 of Title 18A of the New Jersey Statutes and amending various sections of the New Jersey Statutes.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

C.18A:17-9.1 Board secretary to receive, hold moneys in certain districts.

1. In a school district which does not have a treasurer of school moneys, the board secretary shall receive and hold in trust all school moneys belonging to the district from whatever source derived free of any control by the governing body of any municipality comprised in that district, except any moneys derived from athletic events or other activities of pupil organizations of the district. The board secretary shall, when required by resolution of the board, deposit the school moneys or such part thereof as may be designated in any bank or banking institution of this State designated by it as a depository of school moneys, which may include the State of New Jersey Cash Management Fund, created pursuant to section 1 of P.L.1977, c.281 (C.52:18A-90.4), and thereafter school moneys shall be

deposited only in the depository or any of the depositories so named and the secretary shall, upon depositing the same therein, be relieved from liability for any loss thereof which may be caused by reason of the deposit.

C.18A:17-9.2 Board secretary to keep records in certain districts.

2. In a school district which does not have a treasurer of school moneys, the board secretary shall keep a record of the sums received and paid out by him in accordance with the uniform system of bookkeeping prescribed by the State board. Upon ceasing to hold the office the board secretary shall pay over the balance of school funds remaining in his hands to his successor in office.

3. N.J.S.18A:2-2 is amended to read as follows:

Payment and disposition of fines imposed under this title.

18A:2-2. In every case of conviction or violation of any provision of this title, when a fine is imposed, the defendant may pay the fine, together with the cost to the officer before whom the conviction is had, and such officer shall receive the same and unless otherwise provided by this or any other law he shall remit the amount of the fine within 10 days thereafter to the board secretary or treasurer of school moneys of the district, as appropriate, where the offense was committed, for the use of the public schools thereof.

4. N.J.S.18A:6-50 is amended to read as follows:

Expenses of delegates; dues.

18A:6-50. For the purpose of defraying the necessary expenses of the association, the various district boards shall pay the necessary expenses incurred by its delegates, and shall appropriate annually such sums for dues as may be assessed by the association at any delegates meeting. The assessment of dues shall be made upon a graduated scale and shall be made only upon two-thirds vote of the delegates present at such delegates meeting, after notice of the taking of such vote shall have been given to each district board in writing at least 60 days before such delegates meeting. However, the dues assessed any board of education shall not be increased for any year by more than 33 1/3% of the dues assessed that board during the preceding year. Dues shall be payable by the board secretary or treasurer of school moneys of the school district, as appropriate, to the treasurer of the association.

5. N.J.S.18A:8-33 is amended to read as follows:

Treasurer of school moneys.

18A:8-33. The board may appoint a suitable person, except a member or employee of the board, as treasurer of school moneys and may fix his salary, and he shall give bond in such amount, according to such terms, as are required by law, of treasurers of school moneys of school districts, and with such surety as the board shall direct. The board in its determination of the amount shall be guided by a schedule of minimum limits to be promulgated by the State board.

6. N.J.S.18A:13-13 is amended to read as follows:

Appointment of secretary.

18A:13-13. The board shall appoint a secretary who may or may not be a member of the board, for the term of one year beginning on July 1 following his appointment but he shall continue to serve after the expiration of his term until his successor is appointed and qualified. In a district which does not have a treasurer of school moneys, the secretary shall give bond in such amount and with such surety as the board shall direct. The board shall be guided in its determination of the amount of coverage necessary by a schedule of minimum limits promulgated by the State Board of Education.

7. N.J.S.18A:13-14 is amended to read as follows:

Treasurer of school moneys; appointment; term; bond.

18A:13-14. The board may appoint a treasurer of school moneys who shall not be a member or employee of the board and it shall fix his salary. His term of office shall expire annually on June 30 of each year, but if a municipal officer is appointed treasurer, his term shall cease if he ceases to hold his municipal office and in either case, the treasurer shall continue in office after the expiration of his term until his successor is qualified. He shall give bond in such amount, and with such surety, as the board shall direct. The board in its determination of the amount shall be guided by a schedule of minimum limits to be promulgated by the State board.

8. N.J.S.18A:13-50 is amended to read as follows:

Transfers; funds; personal property, books, etc., obligations of indebtedness.

18A:13-50. Upon the dissolution of any local district the officer having custody of the funds of such district shall deliver all of the funds of the dissolved district in his possession to the secretary of the successor regional district who shall give his receipt therefor and shall, in a district which has

a treasurer of school moneys, immediately turn the same over to the treasurer of school moneys of the regional district.

All personal property, books, papers, vouchers and other documents belonging to any district, being dissolved, shall be transferred to the secretary of said regional district who shall cause a complete inventory to be made on all assets, real and personal, received by the regional school district. Upon and after the date of dissolution of the district all proceeds of taxes of any nature raised or to be levied for use or benefit of each dissolving school district and rights and claims with respect thereto, and all the property, funds, moneys and assets of each dissolving district shall vest in the regional district and the regional district shall be subject to all the contracts, debts and other obligations of each dissolving district. Upon said date all bonds and notes, of each dissolving district, theretofore issued and outstanding and all bonds and notes theretofore issued and outstanding of any municipality constituting or comprised within any dissolving district which were issued for the purpose of acquiring property which is vesting on said date in the regional district shall be and shall constitute obligations of and payable as to both principal and interest by the regional district, and, unless otherwise required or provided for by law, in the same manner and to the same extent as if such bonds and notes had been issued by the board of the regional district. The regional board shall cause an audit and settlement of all accounts of officers of the former district or districts to be made forthwith. The official bonds of such officers shall be continued in full force and effect until the completion of such audit and satisfactory financial settlement of said accounts shall have been made.

9. N.J.S.18A:17-6 is amended to read as follows:

Bond of secretary.

18A:17-6. The secretary shall, before entering upon the duties of his office, give bond to the board, not less than $2,000.00, in an amount and with surety to be approved by the board, conditioned for the faithful performance of the duties of his office. In a district which does not have a treasurer of school moneys, if the secretary is an officer of the municipality constituting the district, and the bond given by the officer for the faithful performance of the municipal duties covers and secures the faithful performance of the duties as secretary, and a certificate of coverage with sufficient amounts of coverage for both the municipal and board position is certified to the board, the secretary shall not be required to give additional bond. The board shall be guided in its determination of the amount of coverage necessary by a schedule of

minimum limits of coverage promulgated by the State Board of Education. The board may accept as surety a corporation authorized to be surety under the laws of this State and may pay the annual premiums or fee upon said bond as a current expense of the board.

10. N.J.S.18A:17-8 is amended to read as follows:

Duties of secretary as general accountant of board.

18A:17-8. The secretary shall be the general accountant of the board and he shall:

a. Collect and in a district which does not have a treasurer of school moneys, deposit tuition fees and other moneys due to the board. In a district which has a treasurer of school moneys, the secretary shall collect those fees not payable directly to the treasurer of school moneys of the district and transmit the same to the treasurer of school moneys;

b. Examine and audit all accounts and demands against the board and present the same to the board for its approval in open meeting, and when payment thereof shall be ordered by the board, he shall indicate the board's approval upon the same in writing with the president of the board and present the same for payment pursuant to N.J.S.18A:19-1 or, in a district which has a treasurer of school moneys, to the treasurer; and

c. Keep and maintain such accounts of the financial transactions of the district as shall be prescribed by the State board in accordance with the uniform system of bookkeeping presented by the State board including a correct detailed account of all the expenditures of school moneys in the district.

11. N.J.S.18A:17-9 is amended to read as follows:

Monthly reconciliation of bank account statements; report by secretary.

18A:17-9. The chief school administrator or board designee other than the secretary shall prepare the monthly reconciliation of bank account statements and in conjunction with the secretary take any steps necessary to bring the cash record balance and reconciled bank balance into agreement prior to completion of the secretary's monthly report.

The secretary shall:

a. Report to the board, at each regular meeting, but not more often than once each month, the amount of total appropriations and the cash receipts for each account, the amount for which warrants have been drawn against each account, the amounts of orders or contractual obligations incurred and chargeable against each account year to date and since the date of his last report, the cash and appropriation balances for each account and

fund, and the reconciled bank account balances in the manner and form prescribed by the commissioner;

b. Keep and maintain in his office all contracts, records and documents belonging to the board, except such as shall be kept by the treasurer of school moneys pursuant to law, under such conditions as the board shall prescribe;

c. Perform any other duties prescribed by law.

12. N.J.S.18A:17-31 is amended to read as follows:

Treasurer of school moneys.

18A:17-31. The board may appoint any suitable person except a member or employee of the board, with a term of office fixed by the board as the treasurer of school moneys. Any municipal officer acting or designated as treasurer of school moneys who ceases to be such officer shall thereupon cease to be such treasurer.

13. N.J.S.18A:17-34 is amended to read as follows:

Receipt and disposition of moneys.

18A:17-34. In a district which appoints a treasurer of school moneys, the treasurer shall receive and hold in trust all school moneys belonging to the district from whatever source derived free of any control by the governing body of any municipality comprised in said district, except such moneys as are derived from athletic events or other activities of pupil organizations of the district, and he shall, when required by resolution of the board, deposit the same or such part thereof as may be designated in any bank or banking institution of this State designated by it as a depository of school moneys, which may include the State of New Jersey Cash Management Fund, created pursuant to section 1 of P.L.1977, c.281 (C.52:18A-90.4), and thereafter school moneys shall be deposited only in the depository or any of the depositories so named and the treasurer shall, upon depositing the same therein, be relieved from liability for any loss thereof which may be caused by reason of such deposit.

14. N.J.S.18A:19-1 is amended to read as follows:

Expenditures of funds on warrant only; requisites.

18A:19-1. The money or funds of the board in the custody of the secretary or treasurer of school moneys shall be expended by the secretary or treasurer of school moneys by, and only by, warrants, each made payable to the order of the person entitled to receive the amount thereof and specifying

the object for which it is issued, signed by the president and secretary of the board and the chief school administrator or by the treasurer of school moneys, as appropriate to the district,

(a) After audit of the account or demand to be paid, by the secretary, and after approval by the board, or

(b) In accordance with payrolls duly certified as provided by this title, or

(c) For debt service, or

(d) When provided by resolution of the board, after audit of the account or demand to be paid, and approval by a person designated by the board.

15. N.J.S.18A:19-2 is amended to read as follows:

Requirements for payment of claims; audit of claims in general.

18A:19-2. No claim or demand against a school district shall be paid by the secretary or treasurer of school moneys, as appropriate, unless it is authorized by law and the rules of the board of education of the district, is fully itemized and verified, has been duly audited as required by law, has been presented to, and approved by, the board at a meeting thereof, or presented to, and approved by, a person designated by the board for that purpose, and the amount required to pay the same is available for said purpose.

16. N.J.S.18A:19-4 is amended to read as follows:

Audit of claims; warrants for payments.

18A:19-4. All claims and demands against the board, except such as are to be paid from funds derived from athletic events or other activities of pupil organizations, shall, unless otherwise provided by resolution of the board, be examined, audited and certified in writing by the secretary and presented by him to the board for its approval at a regularly called meeting, and if found to be correct, shall be ordered paid by the board, whereupon the secretary and the president of the board and the chief school administrator shall issue and sign a warrant in payment therefor. In a district which has a treasurer of school moneys, the secretary thereupon shall forward the warrant to the treasurer of school moneys.

17. N.J.S.18A:19-9 is amended to read as follows:

Compensation of teachers, etc., payrolls.

18A:19-9. Payment of the compensation of teachers and other employees may be made on the basis of payrolls certified by the president and secretary of the board and the chief school administrator, stating the names

and amounts to be paid to each. In a district which has a treasurer of school moneys, the payrolls shall be delivered to the treasurer of school moneys with a warrant made to his order for the full amount of each payroll.

18. N.J.S.18A:19-10 is amended to read as follows:

Payroll bank accounts; checks for compensation.

18A:19-10. In a district which does not have a treasurer of school moneys, the secretary shall pursuant to N.J.S.18A:19-1 draw and deposit the warrants in separate bank accounts as a net payroll account and agency account for payroll deductions and associated board contributions. Payment shall be made to the teachers and others entitled thereto by individual checks drawn to their respective orders upon such account and signed by the secretary and a board designee. In a district which has a treasurer of school moneys, the treasurer shall deposit the warrants in a separate bank account as a payroll account and payment shall be made to the teachers and others entitled thereto by individual checks drawn to their respective orders upon such account.

19. N.J.S.18A:19-12 is amended to read as follows:

Interest payable on certain warrants not immediately paid.

18A:19-12. When a warrant for the payment of current expenses of a public school is drawn and issued and there are no funds for payment of the same, the warrant shall bear legal interest until such time as the secretary or treasurer, as appropriate, gives public notice of the fact that funds are provided for the payment thereof.

20. N.J.S.18A:22-23 is amended to read as follows:

Additional appropriations; raising.

18A:22-23. Upon receipt of the certificate, the governing body of the municipality shall immediately appropriate the sum or sums for the purpose or purposes and shall raise such sum or sums in the manner provided by law for the raising of such funds by the municipality in emergencies, and the raising of the funds required by such certificate, in such a case, shall be considered an emergency. Upon raising the funds, the governing body shall cause the sum or sums to be paid forthwith to the secretary or treasurer, as appropriate, of the district for such purpose or purposes.

21. N.J.S.18A:22-26 is amended to read as follows:

Board of school estimate of type II district to determine appropriation amount.

18A:22-26. At or after the public hearing but not later than April 8, the board of school estimate of a type II district having a board of school estimate shall fix and determine by a recorded roll call majority vote of its full membership the amount of money necessary to be appropriated for the use of the public schools in the district for the ensuing school year, exclusive of the amount which shall be apportioned to it by the commissioner for the year pursuant to the provisions of section 5 of P.L.1996, c.138 (C.18A:7F-5) and shall make a certificate of the amount signed by at least a majority of all members of the board, which shall be delivered to the board of education and a copy thereof, certified under oath to be correct and true by the secretary of the board of school estimate, shall be delivered to the county board of taxation on or before April 15 in each year and a duplicate of the certificate shall be delivered to the board or governing body of each of the municipalities within the territorial limits of the district having the power to make appropriations of money raised by taxation in the municipalities or political subdivisions and to the county superintendent of schools and the amount shall be assessed, levied and raised under the procedure and in the manner provided by law for the levying and raising of special school taxes voted to be raised at an annual or special election of the legal voters in type II districts and shall be paid to the board secretary or treasurer of school moneys, as appropriate, of the district for such purposes.

Within 15 days after receiving the certificate the board of education shall notify the board of school estimate, the governing body of each municipality within the territorial limits of the school district, and the commissioner if it intends to appeal to the commissioner the board of school estimate's determination as to the amount of money requested pursuant to the provisions of section 5 of P.L.1996, c.138 (C.18A:7F-5), necessary to be appropriated for the use of the public schools of the district for the ensuing school year.

22. N.J.S.18A:22-44 is amended to read as follows:

Payment of amounts raised to custodian; use.

18A:22-44. The amounts so raised, levied and collected shall be paid to the board secretary or treasurer of school moneys, as appropriate, for the district as other school moneys are paid and shall be used to pay the principal and interest due upon any notes which may have been issued in anticipation thereof as they severally mature and for the purposes so authorized.

23. N.J.S.18A:24-59 is amended to read as follows:

Disposition of funds for payment of principal and interest on obligations.

18A:24-59. All moneys received for payment of principal and interest of obligations of a type II school district payable in any year shall be paid to the secretary or treasurer of school moneys of the district, as appropriate, who shall deposit them in such bank as shall be determined by resolution by the board, in order to provide for the payment thereof.

24. N.J.S.18A:29-4 is amended to read as follows:

Withholding salary for failure to perform duties.

18A:29-4. The commissioner shall direct the board secretary or treasurer of school moneys, as appropriate, of any district to withhold the salary of any teaching staff member of the district who shall neglect or refuse to perform any duty imposed upon him by law or by the rules of the State board until the receipt of notice from the commissioner that such teacher has performed the duty.

25. N.J.S.18A:33-2 is amended to read as follows:

Penalty for failure to provide proper facilities.

18A:33-2. When any school district shall fail to provide such facilities and courses of study, the county superintendent shall, by order in writing, approved in writing by the commissioner and transmitted to the board secretary or treasurer of school moneys, as appropriate, of the district, direct the secretary or treasurer to withhold further payments, for the account of the district, of any moneys theretofore and thereafter received from State aid until such suitable facilities and courses of study shall be provided, which order shall be effective upon the date stated by the commissioner in his approval thereof. The county superintendent shall notify the board of education of the district of his action with the reasons therefor forthwith.

26. N.J.S.18A:38-19 is amended to read as follows:

Tuition of pupils attending schools in another district.

18A:38-19. Whenever the pupils of any school district are attending public school in another district, within or without the State, pursuant to this article, the board of education of the receiving district shall determine a tuition rate to be paid by the board of education of the sending district to an amount not in excess of the actual cost per pupil as determined under rules prescribed by the commissioner and approved by the State board, and such tuition shall be paid by the board secretary or treasurer of school moneys,

as appropriate, of the sending district out of any moneys in his hands available for current expenses of the district upon order issued by the board of education of the sending district, signed by its president and secretary, in favor of the board secretary or treasurer of school moneys, as appropriate, of the receiving district.

27. N.J.S.18A:39-1.2 is amended to read as follows:

Provision of transportation for certain pupils, contracts; charges, method of collection.

18A:39-1.2. Whenever the governing body of a municipality finds that for safety reasons it is desirable to provide transportation to and from a school for pupils living within the municipality, other than those living remote from the school or those physically handicapped or mentally retarded, the governing body and the board of education of the district are authorized to enter into a contract pursuant to the "Interlocal Services Act," P.L.1973, c.208 (C.40:8A-1 et seq.), under the terms of which the board shall provide such transportation. Any funds required to be paid by the municipality to the board of education under such a contract shall be appropriated by the governing body and paid to the secretary or treasurer of school moneys, as appropriate, of the district. The governing body of the municipality may charge the parents or guardians of children who are transported for safety reasons in order to help defray expenses, provided that no charge shall be imposed on the parent or guardian of any child who meets the Statewide eligibility standards established by the State Board of Education for free and reduced price meals under the State school lunch program. The amount of any charges and the method of collection shall be specified in the contract between the municipal governing body and the board of education. Nothing in this section shall prevent a board of education from providing transportation at its own expense.

28. N.J.S.18A:47-5 is amended to read as follows:

Commitment to school in another district.

18A:47-5. Children who are dependent and delinquent, or who are habitually truant or incorrigible, or who shall be found by the court to require special instruction, and who reside in a school district in which there is no such special school of instruction may be committed to such a special school of instruction maintained in another district. The board of education of the receiving district shall be entitled to collect and receive from the board of education of the sending district such sum for the tuition and

maintenance of such children as the boards shall agree to, but not in excess of the actual cost per pupil as determined according to rules of the commissioner approved by the State board. The board of education of the sending district shall issue an order, payable from any funds available for current expenses, for such sum in favor of the secretary or treasurer of school moneys, as appropriate, of the school district maintaining the school to which the child shall have been committed.

29. N.J.S.18A:49-3 is amended to read as follows:

State aid.

18A:49-3. When in any school district there shall have been raised for such purposes, by appropriation and taxation, or by subscription, or both, a sum which in the judgment of the State board shall be sufficient for the maintenance in the district of such an evening school or schools, wherein the course of study or any changes therein shall have been approved by the State board, there shall be paid to the secretary or treasurer of school moneys, as appropriate, of the district toward the maintenance of such evening school or schools, on the order of the commissioner, an amount equal to that so raised, but not exceeding the sum of $5,000.00 in any one year. The amount shall be paid by the State treasurer on the warrant of the director of the division of budget and accounting.

30. N.J.S.18A:49-5 is amended to read as follows:

Custody of moneys.

18A:49-5. The secretary or treasurer of school moneys, as appropriate, of the school district shall be the legal custodian of all funds appropriated, raised, or subscribed for the maintenance of such evening schools. He shall keep a separate and distinct account thereof, and shall disburse the moneys on orders signed by the president and secretary of the board of education and the chief school administrator or by the treasurer of school moneys, as appropriate to the district.

31. N.J.S.18A:50-5 is amended to read as follows:

Custodian of moneys; accounting and disbursement.

18A:50-5. The secretary or treasurer of school moneys, as appropriate, of each school district shall be the legal custodian of all funds allocated by the board of education and received from tuition fees or from any other

source for the purpose of carrying out a program of adult education. He shall keep a separate account thereof and shall disburse the moneys on orders signed by the president and secretary of the board of education and the chief school administrator or by the treasurer of school moneys, as appropriate to the district.

32. N.J.S.18A:54-9 is amended to read as follows:

State aid for schools other than day schools.

18A:54-9. When any such school other than a full-time day school shall have been established, there shall be paid to the board secretary or treasurer of school moneys, as appropriate, of the district maintaining the school on the order of the commissioner, an amount equal to that raised in the district for the establishment of the school, exclusive of the amount appropriated for the purchase of land or the erection of a building, which amount shall be paid by the State treasurer on the warrant of the director of the division of budget and accounting in the department of the treasury. Annually thereafter there shall be paid in like manner an amount equal to the amount appropriated by the district for the current expenses of such schools; but the money contributed by the State for the support and maintenance of any such school shall not exceed in any one year the sum of $10,000.00.

33. N.J.S.18A:55-2 is amended to read as follows:

Withholding of funds from district.

18A:55-2. The commissioner shall direct the State treasurer to withhold funds payable by the State from any district which fails to obey the law or the rules or directions of the State board or the commissioner.

The executive county superintendent with the approval of the commissioner may direct the secretary or treasurer of the school moneys, as appropriate, of a school district to withhold all moneys received by him from the State treasurer and then remaining in his hands to the credit to the district, whenever the board of education of the district, or any officer thereof, or the legal voters of any school district, or any board or officer of the municipality in which any such school district is situate, shall neglect or refuse to perform any duty imposed upon such board, officer, or legal voters by this title or by the rules of the State board. The secretary or treasurer, as appropriate, shall withhold such moneys until he shall receive notice from the county superintendent that the board, officer, or legal voters have performed such duty.

34. R.S.40:3-4 is amended to read as follows:

Sinking fund commissions; appointment, duties and powers.

40:3-4. The sinking fund commissions of the several municipalities, counties and school districts, created and established in accordance with the provisions of the act entitled "An act concerning sinking funds and sinking fund commissions," approved March twenty-ninth, one thousand nine hundred and seventeen (L.1917, c.212, p.749), are continued. The membership of such commissions shall be as follows:

a. The executive officer of the municipality or county, or the mayor of municipalities governed by a commission, or the president of the board of education, ex officio; but if such executive officer, mayor or president does not desire to serve, he may appoint in his place a member of the governing body, or an official of the municipality, county or school district, as the case may be. The term for such appointee in the sinking fund commission shall be coexistent with the term of such executive officer, mayor or president or the term of the appointee as a member of the governing body or as an official, except that it shall terminate upon his ceasing to be a member of the governing body or to hold such office; and

b. The comptroller, or in municipalities which have no comptroller, the treasurer, or in municipalities governed by a commission, the director of the department of revenue and finance, or in counties, the county treasurer, or in school districts, the secretary or treasurer of school moneys, as appropriate, ex officio; and

c. In addition three citizens of the municipality, county or school district, as the case may be, resident taxpayers on real estate, to be chosen with reference to their qualifications for the conduct and management of financial affairs who shall not hold any other office in such municipality, county or school district, as the case may be, during their term as members of such commission, who shall be appointed by the mayor, executive officer, or president of the municipality, county or school district by and with the consent of the governing body, or by the commission of a municipality governed by a commission, as the case may be, for a term of three years to begin on January first. When a vacancy shall occur in the citizen membership of the commission, it shall be filled for the unexpired term in the same manner as the original appointment was made.

In municipalities, counties or school districts whose sinking fund amounts to less than fifty thousand dollars, it shall not be necessary for the sinking fund commission to be composed of more than three members, as the governing body thereof shall decide, but if the sinking fund commission

shall in any case be limited to three members, then the same shall be composed of: the comptroller, or in municipalities which have no comptroller, the treasurer, or in municipalities governed by a commission, the director of the department of revenue and finance, or in counties the county treasurer, or in school districts, the secretary or treasurer of school moneys, as appropriate, ex officio; and two citizens of the municipality, county or school district, as the case may be, resident taxpayers on real estate, to be chosen with reference to their qualifications for the conduct and management of financial affairs, who shall not hold any other office in such municipality, county or school district, as the case may be, during their term as members of such commission, who shall be appointed by the mayor, executive officer, or president of the municipality, county or school district, by and with the consent of the governing body, or by the commission of a municipality governed by a commission, one for a term of one year and one for a term of two years, and thereafter each citizen member of such commission shall be appointed for a term of two years to begin January first. When a vacancy shall occur in the citizen membership of the commission, it shall be filled for the unexpired term in the same manner as the original appointment was made. If at any time by reason of the increase of the amount of the sinking fund to fifty thousand dollars or more, or if the governing body shall decide to increase the number of the members of the sinking fund commission to five members, then the commission shall be constituted as hereinbefore provided, and in either case the additional citizen member shall be appointed for such term as will make the term of one citizen member of the sinking fund commission expire each year, the appointments thereafter to be for three years.

35. Section 77 of P.L.1947, c.151 (C.52:27BB-77) is amended to read as follows:

C.52:27BB-77 Apportionment of receipts from inactive properties.

77. The local governing body shall cause to be paid to the county treasurer and to the secretary of the school board, or treasurer of school moneys, as appropriate, at such time and in such manner as the director may prescribe, amounts collected from properties on an inactive list, less reasonable costs of collection, in the proportion that the amounts levied for State, State school, county and school district purposes, respectively, during the fiscal year of such collections bore to the total levy for all purposes upon real and personal property within the municipality.

36. R.S.54:4-75 is amended to read as follows:

Payment by municipality of school moneys to board secretary or treasurer.

54:4-75. The governing body of each municipality shall pay over to the board secretary or treasurer of school moneys, as appropriate, in the case of school districts in which appropriations for school purposes are made by the inhabitants of the school district, within forty days after the beginning of the school year, twenty per centum (20%) of the appropriation for local school purposes, and thereafter, but prior to the last day of the school year, the balance of the moneys raised in the municipality for school purposes in such amounts as may from time to time be requested by the Board of Education, within thirty days after each request. The Board of Education shall not request any more money at any one time than shall be required for its expenditures for a period of eight weeks in advance; provided, however, that the Board of Education may at any time, but not earlier than fifteen days prior to the beginning of the school year, request sufficient moneys to meet all interest and debt redemption charges maturing during the first forty days of the school year. The governing body may make payments of such moneys in advance of the time and in excess of the amounts required by this section. Notwithstanding provisions of this section to the contrary, in those years when the third installment of property taxes has been determined by the tax collector to be due after August 10, the installment shall be due no later than five days after the twenty-fifth day from when the tax bill was mailed or otherwise delivered pursuant to subsection a. of R.S.54:4-64, but no later than September 1.

37. Section 1 of P.L.1945, c.66 (C.54:4A-1) is amended to read as follows:

C.54:4A-1 United States or agency thereof, contributions in lieu of taxes, procedure; disposition.

1. In case the Government of the United States or any agency thereof shall make contributions in lieu of taxes, the contributions shall be made and received as follows:

In the case of contributions made in lieu of the State school tax, such contribution shall be made to the Treasurer of the State and shall be considered as an addition to the State school tax levied against the county in which the property of the Government of the United States or any agency thereof is situated for which the in lieu contribution is made, and shall be apportioned in the same manner as the State school tax is apportioned.

In case of contribution made in lieu of county or county subdivision taxes, such contribution shall be made to the county treasurer to be used for such purposes as the tax is used for which the in lieu payment is made.

In case of contribution made in lieu of the local school tax, such contribution shall be made to the board secretary or treasurer of school moneys, as appropriate, of the school district in which the property is located, for which the in lieu contribution is made, and to be used for school purposes.

In case of contribution made in lieu of municipal or municipal subdivision purpose taxes, such contribution shall be made to the treasurer of the municipality to be used for such purposes as the tax is used for which the in lieu contribution is made.

38. Section 3 of P.L.1945, c.66 (C.54:4A-3) is amended to read as follows:

C.54:4A-3 Receipt given for contributions in lieu of taxes.

3. The treasurer, or board secretary or treasurer of school moneys, as appropriate, receiving any of the above contributions in lieu of taxes is authorized to give a receipt therefor.

39. This act shall take effect immediately.

Approved July 2, 2010.

CHAPTER 40

AN ACT concerning the use of certain communications devices by operators of commercial motor vehicles and amending P.L.2003, c. 310.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Section 1 of P.L.2003, c.310 (C.39:4-97.3) is amended to read as follows:

C.39:4-97.3 Use of wireless telephone, electronic communication device in moving vehicle; definitions; enforcement.

1. a. The use of a wireless telephone or electronic communication device by an operator of a moving motor vehicle on a public road or highway shall be unlawful except when the telephone is a hands-free wireless telephone or the electronic communication device is used hands-free, provided that its placement does not interfere with the operation of federally required safety equipment and the operator exercises a high degree of caution in the

operation of the motor vehicle. For the purposes of this section, an "electronic communication device" shall not include an amateur radio.

Nothing in P.L.2003, c.310 (C.39:4-97.3 et seq.) shall apply to the use of a citizen's band radio or two-way radio by an operator of a moving commercial motor vehicle or authorized emergency vehicle on a public road or highway.

b. The operator of a motor vehicle may use a hand-held wireless telephone while driving with one hand on the steering wheel only if:

(1) The operator has reason to fear for his life or safety, or believes that a criminal act may be perpetrated against himself or another person; or

(2) The operator is using the telephone to report to appropriate authorities a fire, a traffic accident, a serious road hazard or medical or hazardous materials emergency, or to report the operator of another motor vehicle who is driving in a reckless, careless or otherwise unsafe manner or who appears to be driving under the influence of alcohol or drugs. A hand-held wireless telephone user's telephone records or the testimony or written statements from appropriate authorities receiving such calls shall be deemed sufficient evidence of the existence of all lawful calls made under this paragraph.

As used in this act:

"Citizen's band radio" means a mobile communication device designed to allow for the transmission and receipt of radio communications on frequencies allocated for citizen's band radio service use.

"Hands-free wireless telephone" means a mobile telephone that has an internal feature or function, or that is equipped with an attachment or addition, whether or not permanently part of such mobile telephone, by which a user engages in a conversation without the use of either hand; provided, however, this definition shall not preclude the use of either hand to activate, deactivate, or initiate a function of the telephone.

"Two-way radio" means two-way communications equipment that uses VHF frequencies approved by the Federal Communications Commission.

"Use" of a wireless telephone or electronic communication device shall include, but not be limited to, talking or listening to another person on the telephone, text messaging, or sending an electronic message via the wireless telephone or electronic communication device.

c. (Deleted by amendment, P.L.2007, c.198).

d. A person who violates this section shall be fined $100.

e. No motor vehicle points or automobile insurance eligibility points pursuant to section 26 of P.L.1990, c.8 (C.17:33B-14) shall be assessed for this offense.

f. The Chief Administrator of the New Jersey Motor Vehicle Commission shall develop and undertake a program to notify and inform the public as to the provisions of this act.

g. Whenever this section is used as an alternative offense in a plea agreement to any other offense in Title 39 of the Revised Statutes that would result in the assessment of motor vehicle points, the penalty shall be the same as the penalty for a violation of section 1 of P.L.2000, c.75 (C.39:4-97.2), including the surcharge imposed pursuant to subsection f. of that section, and a conviction under this section shall be considered a conviction under section 1 of P.L.2000, c.75 (C.39:4-97.2) for the purpose of determining subsequent enhanced penalties under that section.

2. This act shall take effect immediately.

Approved July 2, 2010.

CHAPTER 41

AN ACT concerning sales of securities and supplementing P.L.1967, c.93 (C.49:3-47 et seq.).

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

C.49:3-52.2 Sales of securities, misleading use of senior-specific certifications.

1. a. A person who uses a certification or professional designation to indicate or imply that the user has special training in advising or servicing senior citizens or retirees (hereinafter, a "senior-specific certification or professional designation"), in such a way as to mislead any person, in connection with the offer, sale, or purchase of a security, or the provision of advice as to the value of or the advisability of investing in, purchasing, or selling a security, either directly or indirectly or through a publication or a writing, or by issuing or promulgating an analysis or report relating to a security shall have engaged in a dishonest or unethical practice pursuant to subparagraph (vii) of paragraph (2) of subsection (a) of section 11 of P.L.1967, c.93 (C.49:3-58).

b. Uses of a senior-specific certification or professional designation that shall be a dishonest or unethical practice pursuant to subsection a. of this section shall include, but shall not be limited to, the use of:

(1) a certification or professional designation by a person who has not actually earned or who is otherwise ineligible to use that certification or professional designation;

(2) a nonexistent or self-conferred certification or professional designation;

(3) a certification or professional designation that indicates or implies a level of occupational qualifications obtained through education, training, or experience that the person using the certification or professional designation does not have; and

(4) a certification or professional designation that was obtained from a certifying or designating organization that:

(a) is primarily engaged in the business of instruction in sales or marketing;

(b) does not have reasonable standards or procedures for assuring the competency of its certificants or designees;

(c) does not have reasonable standards or procedures for monitoring and disciplining its certificants or designees for improper or unethical conduct; or

(d) does not have reasonable continuing education requirements for its certificants or designees in order to maintain the certificate or designation.

c. A rebuttable presumption that a certifying or designating organization is not included as an organization to which paragraph (4) of subsection b. of this section is applicable shall exist, if the organization has been accredited by:

(1) the American National Standards Institute;

(2) the National Commission for Certifying Agencies; or

(3) an organization that is on the United States Department of Education's list entitled "Accrediting Agencies Recognized for Title IV Purposes" and the certification or professional designation issued by the organization does not primarily apply to sales or marketing.

d. In determining whether a combination of words, or an acronym standing for a combination of words, constitutes a senior-specific certification or professional designation, factors to be considered shall include:

(1) use of one or more words such as "senior," "retirement," "elder," or like words, combined with one or more words such as "certified," "registered," "chartered," "adviser," "specialist," "consultant," "planner," or like words, in the name of the certification or professional designation; and

(2) the manner in which those words are combined.

e. For purposes of this section, a senior-specific certification or professional designation shall not include a job title within an organization that

is licensed or registered by a state or federal financial services regulatory agency, if that job title:

(1) indicates seniority or standing within the organization; or

(2) specifies an individual's area of specialization within the organization.

For purposes of this subsection, "financial services regulatory agency" shall include, but shall not be limited to, an agency that regulates brokers, dealers, investment advisers, or investment companies as defined pursuant to the federal "Investment Advisers Act of 1940" (15 U.S.C. s.80b-1 et seq.) or the federal "Investment Company Act of 1940" (15 U.S.C. s.80a-1 et seq.).

f. Nothing in this section shall limit the bureau chief's enforcement authority under the law.

2. This act shall take effect immediately.

Approved July 2, 2010.

CHAPTER 42

AN ACT concerning certain surplus lines producer fees and amending P.L.2001, c.210.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Section 13 of P.L.2001, c.210 (C.17:22A-38) is amended to read as follows:

C.17:22A-38 Requirements for license granting surplus lines authority.

13. a. No license granting surplus lines authority shall be issued or renewed unless the applicant holds or will hold property and casualty authorities.

b. No surplus lines producer shall charge any fee to an originating broker in connection with the negotiation or procurement of any contract of surplus lines insurance that shall exceed an amount set forth by the commissioner pursuant to regulation, plus the actual costs incurred for any services performed by a person that is not associated with the surplus lines producer, such as inspection services.

2. This act shall take effect on the first day of the third month next following enactment, but the Commissioner of Banking and Insurance may

take any anticipatory administrative action in advance thereof as shall be necessary for the implementation of this act.

Approved July 2, 2010.

CHAPTER 43

AN ACT concerning the employment of certain firefighters and amending P.L.1993, c.187 and P.L.1996, c.140.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Section 2 of P.L.1993, c.187 (C.40A:14-9.9) is amended to read as follows:

C.40A:14-9.9 Appointments to municipal fire department, force of certain firefighters.

2. a. The provisions of any other law to the contrary notwithstanding, the appointing authority of a municipality which, pursuant to N.J.S.40A:14-7, has established and maintains a paid or part-paid fire department and force may appoint as a member or officer of the municipal fire department and force any person who:

(1) was serving as an officer or member in good standing in any paid or part-paid municipal fire department and force;

(2) satisfactorily completed a working test period in a firefighter title in a municipality which has adopted Title 11A, Civil Service, of the New Jersey Statutes or satisfactorily completed a comparable, documented probationary period in a firefighter title in a municipality which has not adopted Title 11A, Civil Service; and

(3) was, for reasons of economy, terminated as a firefighter within 60 months prior to the appointment.

b. A municipality may employ such a person notwithstanding that:

(1) Title 11A, Civil Service, of the New Jersey Statutes is operative in that municipality;

(2) the municipality has available to it an eligible or regular reemployment list of persons eligible for such appointments; and

(3) the appointed person is not on any eligible list. A municipality which has adopted Title 11A, Civil Service, may not employ such a person if a special reemployment list is in existence for the firefighter title to be filled.

c. If a municipality determines to appoint a person pursuant to the provisions of this act, it shall give first priority in making such appointments to residents of the municipality and second priority to residents of the county not residing in the municipality.

d. The seniority, seniority-related privileges and rank a firefighter possessed with the employer who terminated the firefighter's employment for reasons of economy shall not be transferable to a new position when the firefighter is appointed to a firefighter position pursuant to the provisions of this section.

2. Section 1 of P.L.1996, c.140 (C.40A:14-182) is amended to read as follows:

C.40A:14-182 Federal firefighters, certain; appointment.

1. a. The provisions of any other law to the contrary notwithstanding, the appointing authority of a municipality which, pursuant to N.J.S.40A:14-7, has established and maintains a paid or part-paid fire department and force or the board of fire commissioners in the case of a fire district established pursuant to the provisions of N.J.S.40A:14-70 et seq., may appoint as a member or officer of that fire department or force any person who:

(1) was serving as a civilian federal firefighter in good standing at any U.S. military installation in the State;

(2) satisfactorily completed such firefighter training as is required for employment as a civilian federal firefighter; and

(3) was, as a consequence of the closure of a federal military installation in this State, terminated as a civilian federal firefighter within 60 months prior to the appointment.

b. A municipality may employ such a person notwithstanding that:

(1) Title 11A, Civil Service, of the New Jersey Statutes is operative in that municipality;

(2) the municipality has available to it an eligible or regular reemployment list of persons eligible for such appointments; and

(3) the appointed person is not on any eligible list. A municipality which has adopted Title 11A, Civil Service, may not employ such a person if a special reemployment list is in existence for the firefighter title to be filled.

c. If a municipality determines to appoint a person pursuant to the provisions of this act, it shall give first priority in making such appointments to residents of the municipality and second priority to residents of the county not residing in the municipality.

d. The seniority, seniority-related privileges and rank a civilian federal firefighter possessed while employed at a federal military installation shall not be transferable to a position in a municipal fire department and force obtained pursuant to the provisions of this section.

e. To effectuate the purposes of this section, the Civil Service Commission shall prepare and circulate, to those municipalities which have established and maintain fire departments and forces pursuant to N.J.S.40A:14-7, and to boards of fire commissioners in the case of fire districts established pursuant to the provisions of N.J.S.40A:14-70 et seq., a list of civilian federal firefighters eligible for appointment under the provisions of this section. The Civil Service Commission shall also circulate the list to municipalities and fire districts that have not adopted Title 11A, Civil Service, of the New Jersey Statutes.

Placement on the list compiled by the department shall be governed by length of service as a federal firefighter. A federal firefighter may apply for placement on the list at the time he or she receives a notice of termination of position or a priority placement program notice, and shall remain on the list for a period of four years.

3. This act shall take effect immediately.

Approved July 2, 2010.

CHAPTER 44

AN ACT concerning the calculation of the local tax levy cap and revising parts of the statutory law.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Section 1 of P.L.2009, c.80 (C.18A:6-114) is amended to read as follows:

C.18A:6-114 Comprehensive program of after school activities in certain districts.

1. a. In counties in which there is located a municipality that had a population of 60,000 persons or more, as reported in the latest federal decennial census published prior to the enactment of this act, the board of education of each district that is a district factor group A or B school district that also is a kindergarten through grade 12 district with a concentration of

at-risk pupils greater than 40%, in conjunction with the local governing body of the municipality in which the district is located, shall develop a plan for a comprehensive program of after school activities for students enrolled in the district.

b. The plan shall include, but need not be limited to, the following:

(1) the goals and objectives of the program and the ways in which it will serve the needs and interests of the students in the district;

(2) a detailed description of the recreational, academic and civic enrichment activities that will be offered pursuant to the program;

(3) the background and qualifications of personnel who will direct and supervise the program;

(4) a schedule of the days and hours during which the program will operate;

(5) the criteria which will be utilized to determine eligibility for student participation in the program;

(6) an estimate of the number of students who will be served by the program;

(7) an estimate of the overall cost of the program and the amount of general fund tax levy required to be raised by the district to support the program; and

(8) any other information which the board determines to be necessary.

c. After the plan has been developed, the board of education, in conjunction with the local governing body, shall conduct two public hearings to receive community input on the plan.

d. After the plan for the comprehensive program of after school activities has been adopted by resolution of the board of education, the amount of any additional general fund tax levy required to be raised by the district to implement the program required pursuant to this act shall be submitted to the voters of the district or the board of school estimate, as appropriate; except that the amount of any additional general fund tax levy shall not exceed $2,000,000. If approved by the voters or the board of school estimate, the amount so approved shall be assessed, levied and collected in the manner provided by law. If the voters or the board of school estimate does not approve the additional general fund tax levy, the district shall not be required to implement the plan developed pursuant to this act.

e. Any additional general fund tax levy raised to implement the comprehensive program of after school activities established pursuant to this act shall not be used to supplant State or local funds allocated to support after school programs operated by the district as of the effective date of this act.

f. Amounts raised for the comprehensive program of after school activities established pursuant to this act shall be accounted for in a special revenue fund and used solely for the purposes of the program.

g. The amount of any additional general fund tax levy raised in any budget year pursuant to subsection d. of this section shall be an adjustment to the district's tax levy growth limitation as calculated pursuant to section 3 of P.L.2007, c.62 (C.18A:7F-38).

2. Section 5 of P.L.1996, c.138 (C.18A:7F-5) is amended to read as follows:

C.18A:7F-5 Notification of districts of aid payable; budget submissions.

5. As used in this section, "cost of living" means the CPI as defined in section 3 of P.L.2007, c.260 (C.18A:7F-45).

a. Within 30 days following the approval of the Educational Adequacy Report, the commissioner shall notify each district of the base per pupil amount, the per pupil amounts for full-day preschool, the weights for grade level, county vocational school districts, at-risk pupils, bilingual pupils, and combination pupils, the cost coefficients for security aid and for transportation aid, the State average classification rate and the excess cost for general special education services pupils, the State average classification rate and the excess cost for speech-only pupils, and the geographic cost adjustment for each of the school years to which the report is applicable.

Annually, within two days following the transmittal of the State budget message to the Legislature by the Governor pursuant to section 11 of P.L.1944, c.112 (C.52:27B-20), the commissioner shall notify each district of the maximum amount of aid payable to the district in the succeeding school year pursuant to the provisions of P.L.2007, c.260 (C.18A:7F-43 et al.), and shall notify each district of the district's adequacy budget for the succeeding school year.

For the 2008-2009 school year and thereafter, unless otherwise specified within P.L.2007, c.260 (C.18A:7F-43 et al.), aid amounts payable for the budget year shall be based on budget year pupil counts, which shall be projected by the commissioner using data from prior years. Adjustments for the actual pupil counts of the budget year shall be made to State aid amounts payable during the school year succeeding the budget year. Additional amounts payable shall be reflected as revenue and an account receivable for the budget year.

Notwithstanding any other provision of this act to the contrary, each district's State aid payable for the 2008-2009 school year, with the exception

of aid for school facilities projects, shall be based on simulations employing the various formulas and State aid amounts contained in P.L.2007, c.260 (C.18A:7F-43 et al.). The commissioner shall prepare a report dated December 12, 2007 reflecting the State aid amounts payable by category for each district and shall submit the report to the Legislature prior to the adoption of P.L.2007, c.260 (C.18A:7F-43 et al.). Except as otherwise provided pursuant to this subsection and paragraph (3) of subsection d. of section 5 of P.L.2007, c.260 (C.18A:7F-47), the amounts contained in the commissioner's report shall be the final amounts payable and shall not be subsequently adjusted other than to reflect the phase-in of the required general fund local levy pursuant to paragraph (4) of subsection b. of section 16 of P.L.2007, c.260 (C.18A:7F-58) and to reflect school choice aid to which a district may be entitled pursuant to section 20 of that act. The projected pupil counts and equalized valuations used for the calculation of State aid shall also be used for the calculation of adequacy budget, local share, and required local share. For 2008-2009, extraordinary special education State aid shall be included as a projected amount in the commissioner's report dated December 12, 2007 pending the final approval of applications for the aid. If the actual award of extraordinary special education State aid is greater than the projected amount, the district shall receive the increase in the aid payable in the subsequent school year pursuant to the provisions of subsection c. of section 13 of P.L.2007, c.260 (C.18A:7F-55). If the actual award of extraordinary special education State aid is less than the projected amount, other State aid categories shall be adjusted accordingly so that the district shall not receive less State aid than as provided in accordance with the provisions of sections 5 and 16 of P.L.2007, c.260 (C.18A:7F-47 and C.18A:7F-58).

In the event that the commissioner determines, following the enactment of P.L.2007, c.260 (C.18A:7F-43 et al.) but prior to the issuance of State aid notices for the 2008-2009 school year, that a significant district-specific change in data warrants an increase in State aid for that district, the commissioner may adjust the State aid amount provided for the district in the December 12, 2007 report to reflect the increase.

b. Each district shall have a required local share. For districts that receive educational adequacy aid pursuant to subsection b. of section 16 of P.L.2007, c.260 (C.18A:7F-58), the required local share shall be calculated in accordance with the provisions of that subsection.

For all other districts, the required local share shall equal the lesser of the local share calculated at the district's adequacy budget pursuant to section 9 of P.L.2007, c.260 (C.18A:7F-51), or the district's budgeted local share for the prebudget year.

In order to meet this requirement, each district shall raise a general fund tax levy which equals its required local share.

No municipal governing body or bodies or board of school estimate, as appropriate, shall certify a general fund tax levy which does not meet the required local share provisions of this section.

c. Annually, on or before March 4, each district board of education shall adopt, and submit to the commissioner for approval, together with such supporting documentation as the commissioner may prescribe, a budget that provides for a thorough and efficient education. Notwithstanding the provisions of this subsection to the contrary, the commissioner may adjust the date for the submission of district budgets if the commissioner determines that the availability of preliminary aid numbers for the subsequent school year warrants such adjustment.

Notwithstanding any provision of this section to the contrary, for the 2005-2006 school year each district board of education shall submit a proposed budget in which the advertised per pupil administrative costs do not exceed the lower of the following:

(1) the district's advertised per pupil administrative costs for the 2004-2005 school year inflated by the cost of living or 2.5 percent, whichever is greater; or

(2) the per pupil administrative cost limits for the district's region as determined by the commissioner based on audited expenditures for the 2003-2004 school year.

The executive county superintendent of schools may disapprove the school district's 2005-2006 proposed budget if he determines that the district has not implemented all potential efficiencies in the administrative operations of the district. The executive county superintendent shall work with each school district in the county during the 2004-2005 school year to identify administrative inefficiencies in the operations of the district that might cause the superintendent to reject the district's proposed 2005-2006 school year budget.

For the 2006-2007 school year and each school year thereafter, each district board of education shall submit a proposed budget in which the advertised per pupil administrative costs do not exceed the lower of the following:

(1) the district's prior year per pupil administrative costs; except that the district may submit a request to the commissioner for approval to exceed the district's prior year per pupil administrative costs due to increases in enrollment, administrative positions necessary as a result of mandated programs, administrative vacancies, nondiscretionary fixed costs, and such other items as defined in accordance with regulations adopted pursuant to

section 7 of P.L.2004, c.73. In the event that the commissioner approves a district's request to exceed its prior year per pupil administrative costs, the increase authorized by the commissioner shall not exceed the cost of living or 2.5 percent, whichever is greater; or

(2) the prior year per pupil administrative cost limits for the district's region inflated by the cost of living or 2.5 percent, whichever is greater.

d. (1) A district shall submit, as appropriate, to the board of school estimate or to the voters of the district at the annual school budget election conducted pursuant to the provisions of P.L.1995, c.278 (C.19:60-1 et al.), a general fund tax levy which does not exceed the district's adjusted tax levy as calculated pursuant to sections 3 and 4 of P.L.2007, c.62 (C.18A:7F-38 and 18A:7F-39).

(2) (Deleted by amendment, P.L.2007, c.260).

(3) (Deleted by amendment, P.L.2007, c.260).

(4) Any debt service payment made by a school district during the budget year shall not be included in the calculation of the district's adjusted tax levy.

(5) (Deleted by amendment, P.L.2007, c.260).

(6) (Deleted by amendment, P.L.2007, c.260).

(7) (Deleted by amendment, P.L.2004, c.73).

(8) (Deleted by amendment, P.L.2010, c.44)

(9) Any district may submit at the annual school budget election, in accordance with subsection c. of section 4 of P.L.2007, c.62 (C.18A:7F-39), a separate proposal or proposals for additional funds, including interpretive statements, specifically identifying the program purposes for which the proposed funds shall be used, to the voters, who may, by voter approval, authorize the raising of an additional general fund tax levy for such purposes. In the case of a district with a board of school estimate, one proposal for the additional spending shall be submitted to the board of school estimate. Any proposal or proposals submitted to the voters or the board of school estimate shall not: include any programs and services that were included in the district's prebudget year net budget unless the proposal is approved by the commissioner upon submission by the district of sufficient reason for an exemption to this requirement; or include any new programs and services necessary for students to achieve the thoroughness standards established pursuant to subsection a. of section 4 of P.L.2007, c.260 (C.18A:7F-46).

The executive county superintendent of schools may prohibit the submission of a separate proposal or proposals to the voters or board of school estimate if he determines that the district has not implemented all potential efficiencies in the administrative operations of the district, which efficien-

cies would eliminate the need for the raising of an additional general fund tax levy.

(10) Notwithstanding any provision of law to the contrary, if a district proposes a budget with a general fund tax levy and equalization aid which exceed the adequacy budget, the following statement shall be published in the legal notice of public hearing on the budget pursuant to N.J.S.18A:22-28, posted at the public hearing held on the budget pursuant to N.J.S.18A:22-29, and printed on the sample ballot required pursuant to section 10 of P.L.1995, c.278 (C.19:60-10):

"Your school district has proposed programs and services in addition to the core curriculum content standards adopted by the State Board of Education. Information on this budget and the programs and services it provides is available from your local school district."

(11) Any reduction that may be required to be made to programs and services included in a district's prebudget year net budget in order for the district to limit the growth in its budget between the prebudget and budget years by its tax levy growth limitation as calculated pursuant to sections 3 and 4 of P.L.2007, c.62 (C.18A:7F-38 and 18A:7F-39), shall only include reductions to excessive administration or programs and services that are inefficient or ineffective.

e. (1) Any general fund tax levy rejected by the voters for a proposed budget that includes a general fund tax levy and equalization aid in excess of the adequacy budget shall be submitted to the governing body of each of the municipalities included within the district for determination of the amount that should be expended notwithstanding voter rejection. In the case of a district having a board of school estimate, the general fund tax levy shall be submitted to the board for determination of the amount that should be expended. If the governing body or bodies or board of school estimate, as appropriate, reduce the district's proposed budget, the district may appeal any of the reductions to the commissioner on the grounds that the reductions will negatively impact on the stability of the district given the need for long term planning and budgeting. In considering the appeal, the commissioner shall consider enrollment increases or decreases within the district; the history of voter approval or rejection of district budgets; the impact on the local levy; and whether the reductions will impact on the ability of the district to fulfill its contractual obligations. A district may not appeal any reductions on the grounds that the amount is necessary for a thorough and efficient education.

(2) Any general fund tax levy rejected by the voters for a proposed budget that includes a general fund tax levy and equalization aid at or be-

low the adequacy budget shall be submitted to the governing body of each of the municipalities included within the district for determination of the amount that should be expended notwithstanding voter rejection. In the case of a district having a board of school estimate, the general fund tax levy shall be submitted to the board for determination. Any reductions may be appealed to the commissioner on the grounds that the amount is necessary for a thorough and efficient education or that the reductions will negatively impact on the stability of the district given the need for long term planning and budgeting. In considering the appeal, the commissioner shall also consider the factors outlined in paragraph (1) of this subsection.

In addition, the municipal governing body or board of school estimate shall be required to demonstrate clearly to the commissioner that the proposed budget reductions shall not adversely affect the ability of the school district to provide a thorough and efficient education or the stability of the district given the need for long term planning and budgeting.

(3) In lieu of any budget reduction appeal provided for pursuant to paragraphs (1) and (2) of this subsection, the State board may establish pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), an expedited budget review process based on a district's application to the commissioner for an order to restore a budget reduction.

(4) When the voters, municipal governing body or bodies, or the board of school estimate authorize the general fund tax levy, the district shall submit the resulting budget to the commissioner within 15 days of the action of the voters or municipal governing body or bodies, whichever is later, or of the board of school estimate as the case may be.

f. (Deleted by amendment, P.L.2007, c.260).

g. (Deleted by amendment, P.L.2007, c.260).

3. Section 4 of P.L.1998, c.55 (C.18A:7F-5.2) is amended to read as follows:

C.18A:7F-5.2 Sale, lease-back of textbooks; funds classification.

4. a. Proceeds from the sale and lease-back of textbooks and non-consumable instructional materials shall not be considered miscellaneous local general fund revenue for the purpose of calculating the net budget.

b. A board of education may establish a reserve account in the general fund with all or a part of the proceeds from the sale and lease-back of textbooks and non-consumable instructional materials provided that subsequent appropriations from the reserve account shall only be made within the

original budget certified for taxes or as approved by the commissioner for good cause.

4. Section 3 of P.L.2007, c.62 (C.18A:7F-38) is amended to read as follows:

C.18A:7F-38 School district budget increase limited.

3. a. Notwithstanding the provisions of any other law to the contrary, a school district shall not adopt a budget pursuant to sections 5 and 6 of P.L.1996, c.138 (C.18A:7F-5 and 18A:7F-6) with an increase in its adjusted tax levy that exceeds, except as provided in subsection e. of section 4 of P.L.2007, c.62 (C.18A:7F-39), the tax levy growth limitation calculated as follows: the sum of the prebudget year adjusted tax levy and the adjustment for increases in enrollment multiplied by 2.0 percent, and adjustments for an increase in health care costs, and increases in amounts for certain normal and accrued liability pension contributions set forth in sections 1 and 2 of P.L.2009, c.19 amending section 24 of P.L.1954, c.84 (C.43:15A-24) and section 15 of P.L.1944, c.255 (C.43:16A-15) for the year set forth in those sections.

b. (1) The allowable adjustment for increases in enrollment authorized pursuant to subsection a. of this section shall equal the per pupil prebudget year adjusted tax levy multiplied by EP, where EP equals the sum of:

(a) 0.50 for each unit of weighted resident enrollment that constitutes an increase from the prebudget year over 1%, but not more than 2.5%;

(b) 0.75 for each unit of weighted resident enrollment that constitutes an increase from the prebudget year over 2.5%, but not more than 4%; and

(c) 1.00 for each unit of weighted resident enrollment that constitutes an increase from the prebudget year over 4%.

(2) A school district may request approval from the commissioner to calculate EP equal to 1.00 for any increase in weighted resident enrollment if it can demonstrate that the calculation pursuant to paragraph (1) of this subsection would result in an average class size that exceeds 10% above the facilities efficiency standards established pursuant to P.L.2000, c.72 (C.18A:7G-1 et al.).

c. (Deleted by amendment, P.L.2010, c.44)

d. (1) The allowable adjustment for increases in health care costs authorized pursuant to subsection a. of this section shall equal that portion of the actual increase in total health care costs for the budget year, less any withdrawals from the current expense emergency reserve account for increases in total health care costs, that exceeds 2.0 percent of the total health care costs in the prebudget year, but that is not in excess of the product of

the total health care costs in the prebudget year multiplied by the average percentage increase of the State Health Benefits Program, P.L.1961, c.49 (C.52:14-17.25 et seq.), as annually determined by the Division of Pensions and Benefits in the Department of the Treasury.

(2) The allowable adjustment for increases in the amount of normal and accrued liability pension contributions authorized pursuant to subsection a. of this section shall equal that portion of the actual increase in total normal and accrued liability pension contributions for the budget year that exceeds 2.0 percent of the total normal and accrued liability pension contributions in the prebudget year.

e. (Deleted by amendment, P.L.2010, c.44)

f. The adjusted tax levy shall be increased or decreased accordingly whenever the responsibility and associated cost of a school district activity is transferred to another school district or governmental entity.

5. Section 4 of P.L.2007, c.62 (C.18A:7F-39) is amended to read as follows:

C.18A:7F-39 Proposal submission required to increase adjusted tax levy, certain circumstances.

4. a. (Deleted by amendment, P.L.2010, c.44)

b. (Deleted by amendment, P.L.2010, c.44)

c. A school district may submit to the voters at the April school election, or on such other date as is set by regulation of the commissioner, a proposal or proposals to increase the adjusted tax levy by more than the allowable amount authorized pursuant to section 3 of P.L.2007, c.62 (C.18A:7F-38). The proposal or proposals to increase the adjusted tax levy shall be approved if a majority of people voting shall vote in the affirmative. In the case of a school district with a board of school estimate, the additional adjusted tax levy shall be authorized only if a quorum is present for the vote and a majority of those board members who are present vote in the affirmative to authorize the additional adjusted tax levy.

(1) A proposal or proposals submitted to the voters or the board of school estimate to increase the tax levy pursuant to this subsection shall not include any programs or services necessary for students to achieve the core curriculum content standards.

(2) All proposals to increase the tax levy submitted pursuant to this subsection shall include interpretive statements specifically identifying the program purposes for which the proposed funds shall be used and a clear statement on whether approval will affect only the current year or result in

a permanent increase in the levy. The proposals shall be submitted and approved pursuant to sections 5 and 6 of P.L.1996, c.138 (C.18A:7F-5 and 18A:7F-6).

d. (Deleted by amendment, P.L.2010, c.44)

e. A school district that has not been granted approval to exceed the cap pursuant to subsection c. of this section, may add to its adjusted tax levy in any one of the next three succeeding budget years, the amount of the difference between the maximum allowable amount to be raised by taxation for the current school budget year and the actual amount to be raised by taxation for the current school budget year.

6. Section 3 of P.L.2007, c.260 (C.18A:7F-45) is amended to read as follows:

C.18A:7F-45 Definitions relative to school funding reform.

3. As used in this act and P.L.1996, c.138, unless the context clearly requires a different meaning:

"At-risk pupils" means those resident pupils from households with a household income at or below the most recent federal poverty guidelines available on October 15 of the prebudget year multiplied by 1.85;

"Base per pupil amount" means the cost per elementary pupil of delivering the core curriculum content standards and extracurricular and cocurricular activities necessary for a thorough and efficient education;

"Bilingual education pupil" means a resident pupil enrolled in a program of bilingual education or in an English as a second language program approved by the State Board of Education;

"Budgeted local share" means the district's local tax levy contained in the budget certified for taxation purposes;

"Capital outlay" means capital outlay as defined in GAAP;

"Combination pupil" means a resident pupil who is both an at-risk pupil and a bilingual education pupil;

"Commissioner" means the Commissioner of Education;

"Concentration of at-risk pupils" shall be based on prebudget year pupil data and means, for a school district or a county vocational school district, the number of at-risk pupils among those counted in resident enrollment, divided by resident enrollment;

"County special services school district" means any entity established pursuant to article 8 of chapter 46 of Title 18A of the New Jersey Statutes;

"County vocational school district" means any entity established pursuant to article 3 of chapter 54 of Title 18A of the New Jersey Statutes;

"CPI" means the increase, expressed as a decimal, in the average annualized consumer price index for the New York City and Philadelphia areas in the fiscal year preceding the prebudget year relative to the previous fiscal year as reported by the United States Department of Labor;

"Debt service" means payments of principal and interest upon school bonds and other obligations issued to finance the purchase or construction of school facilities, additions to school facilities, or the reconstruction, remodeling, alteration, modernization, renovation or repair of school facilities, including furnishings, equipment, architect fees, and the costs of issuance of such obligations and shall include payments of principal and interest upon bonds heretofore issued to fund or refund such obligations, and upon municipal bonds and other obligations which the commissioner approves as having been issued for such purposes;

"District income" means the aggregate income of the residents of the taxing district or taxing districts, based upon data provided by the Division of Taxation in the New Jersey Department of the Treasury and contained on the New Jersey State Income Tax forms for the calendar year ending two years prior to the prebudget year. The commissioner may supplement data contained on the State Income Tax forms with data available from other State or federal agencies in order to better correlate the data to that collected on the federal census. With respect to regional districts and their constituent districts, however, the district income as described above shall be allocated among the regional and constituent districts in proportion to the number of pupils resident in each of them;

"Equalized valuation" means the equalized valuation of the taxing district or taxing districts, as certified by the Director of the Division of Taxation on October 1, or subsequently revised by the tax court by January 15, of the prebudget year. With respect to regional districts and their constituent districts, however, the equalized valuations as described above shall be allocated among the regional and constituent districts in proportion to the number of pupils resident in each of them. In the event that the equalized table certified by the director shall be revised by the tax court after January 15 of the prebudget year, the revised valuations shall be used in the recomputation of aid for an individual school district filing an appeal, but shall have no effect upon the calculation of the property value rate, Statewide average equalized school tax rate, or Statewide equalized total tax rate;

"Full-day preschool" means a preschool day consisting of a six-hour comprehensive educational program in accordance with the district's kindergarten through grade 12 school calendar;

"GAAP" means the generally accepted accounting principles established by the Governmental Accounting Standards Board as prescribed by the State board pursuant to N.J.S.18A:4-14;

"General special education services pupil" means a pupil receiving specific services pursuant to chapter 46 of Title 18A of the New Jersey Statutes;

"Geographic cost adjustment" means an adjustment that reflects county differences in the cost of providing educational services that are outside the control of the district;

"Household income" means income as defined in 7 CFR ss.245.2 and 245.6 or any subsequent superseding federal law or regulation;

"Net budget" means the sum of the district's general fund tax levy, State aid received pursuant to the provisions of this act other than preschool education aid, miscellaneous revenue estimated pursuant to GAAP, and designated general fund balance;

"Prebudget year" means the school fiscal year preceding the year in which the school budget is implemented;

"Nonpreschool ECPA" means the amount of early childhood program aid, excluding prior year carry-forward amounts, included in a district's 2007-2008 school year budget certified for taxes that was allocated to grades K through 3;

"Report" means the Educational Adequacy Report issued by the commissioner pursuant to section 4 of this act;

"Resident enrollment" means the number of pupils other than preschool pupils, post-graduate pupils, and post-secondary vocational pupils who, on the last school day prior to October 16 of the current school year, are residents of the district and are enrolled in: (1) the public schools of the district, excluding evening schools, (2) another school district, other than a county vocational school district in the same county on a full-time basis, or a State college demonstration school or private school to which the district of residence pays tuition, or (3) a State facility in which they are placed by the district; or are residents of the district and are: (1) receiving home instruction, or (2) in a shared-time vocational program and are regularly attending a school in the district and a county vocational school district. In addition, resident enrollment shall include the number of pupils who, on the last school day prior to October 16 of the prebudget year, are residents of the district and in a State facility in which they were placed by the State. Pupils in a shared-time vocational program shall be counted on an equated full-time basis in accordance with procedures to be established by the commissioner. Resident enrollment shall include regardless of nonresidence, the enrolled children of

teaching staff members of the school district or county vocational school district who are permitted, by contract or local district policy, to enroll their children in the educational program of the school district or county vocational school district without payment of tuition. Disabled children between three and five years of age and receiving programs and services pursuant to N.J.S.18A:46-6 shall be included in the resident enrollment of the district;

"School district" means any local or regional school district established pursuant to chapter 8 or chapter 13 of Title 18A of the New Jersey Statutes;

"State facility" means a State developmental center, a State Division of Youth and Family Services' residential center, a State residential mental health center, a Department of Children and Families Regional Day School, a State training school/secure care facility, a State juvenile community program, a juvenile detention center or a boot camp under the supervisional authority of the Juvenile Justice Commission pursuant to P.L.1995, c.284 (C.52:17B-169 et seq.), or an institution operated by or under contract with the Department of Corrections, Children and Families or Human Services, or the Juvenile Justice Commission;

"Statewide equalized school tax rate" means the amount calculated by dividing the general fund tax levy for all school districts, which excludes county vocational school districts and county special services school districts as defined pursuant to this section, in the State for the prebudget year by the equalized valuations certified in the year prior to the prebudget year of all taxing districts in the State except taxing districts for which there are not school tax levies;

"Tax levy growth limitation" means the permitted annual increase in the adjusted tax levy for a school district as calculated pursuant to sections 3 and 4 of P.L.2007, c.62 (C.18A:7F-38 and 18A:7F-39).

7. N.J.S.18A:20-4.2 is amended to read as follows:

Powers of boards concerning real property.

18A:20-4.2. The board of education of any school district may, for school purposes:

(a) Purchase, take and condemn lands within the district and lands not exceeding 50 acres in extent without the district but situate in a municipality or municipalities adjoining the district, but no more than 25 acres may be so acquired in any one such municipality, without the district, except with the consent, by ordinance, of such municipality;

(b) Grade, drain and landscape lands owned or to be acquired by it and improve the same in like manner;

(c) Erect, lease for a term not exceeding 50 years, enlarge, improve, repair or furnish buildings;

(d) Borrow money therefor, with or without mortgage; in the case of a type II district without a board of school estimate, when authorized so to do at any annual or special school election; and in the case of a type II district having a board of school estimate, when the amount necessary to be provided therefor shall have been fixed, determined and certified by the board of school estimate; and in the case of a type I district, when an ordinance authorizing expenditures for such purpose is finally adopted by the governing body of a municipality comprised within the district; provided, however, that no such election shall be held nor shall any such resolution of a school estimate board or ordinance of a municipal governing body be introduced to authorize any lease of any building for a term exceeding one year, until the proposed terms of such lease have been reviewed and approved by the Commissioner of Education and the Local Finance Board in the Department of Community Affairs;

(e) Construct, purchase, lease or otherwise acquire a building with the federal government, the State, a political subdivision thereof or any other individual or entity properly authorized to do business in the State; provided that: (1) the noneducational uses of the building are compatible with the establishment and operation of a school, as determined by the Commissioner of Education; (2) the portion of the building to be used as a school meets regulations of the Department of Education; (3) the board of education has complied with the provisions of law and regulations relating to the selection and approval of sites; and (4) in the case of a lease, that any lease in excess of five years shall be approved by the Commissioner of Education and the Local Finance Board in the Department of Community Affairs;

(f) Acquire, with the approval of either the commissioner, or voters or board of school estimate, as applicable, improvements or additions to school buildings through lease purchase agreements not in excess of five years. The agreement shall be recorded as an expenditure of the General Fund of the district. The commissioner shall approve the agreement only upon a demonstration by the district that the lease purchase payments and any operating expenses related to the agreement can be included within the district's tax levy growth limitation and will not result in the need for approval by the voters or board of school estimate, as appropriate, of additional spending proposals to maintain existing instructional programs and extracurricular activities. If the commissioner cannot approve the agreement, the board of education may frame a separate question to authorize the lease purchase agreement and obtain voter or board of school estimate ap-

proval to enter into the agreement. A district may, without separate prior approval of the commissioner, also acquire equipment through a lease purchase agreement not in excess of five years or in the case of a lease purchase agreement entered into for the acquisition of school buses not in excess of 10 years, provided that the amount of the first installment and each subsequent installment for the lease purchase payments is included in the budget that is advertised and submitted for approval to the voters of the district or the board of school estimate, as appropriate. As used herein, a "lease purchase agreement" refers to any agreement which gives the board of education as lessee the option of purchasing the leased equipment or improvements or additions to existing school buildings during or upon termination of the lease, with credit toward the purchase price of all or part of rental payments which have been made by the board of education in accordance with the lease. As part of such a transaction, the board of education may transfer or lease land or rights in land, including any building thereon, after publicly advertising for proposals for the transfer for nominal or fair market value, to the party selected by the board of education, by negotiation or otherwise, after determining that the proposal is in the best interest of the taxpayers of the district, to construct or to improve and to lease or to own or to have ownership interests in the site and the school building to be leased pursuant to such lease purchase agreement, notwithstanding the provisions of any other law to the contrary. The land and any building thereon which is described in a lease purchase agreement entered into pursuant to this amendatory act, shall be deemed to be and treated as property of the school district, used for school purposes pursuant to R.S.54:4-3.3, and shall not be considered or treated as property leased to another whose property is not exempt, and shall not be assessed as real estate pursuant to section 1 of P.L.1949, c.177 (C.54:4-2.3). Any lease purchase agreement authorized by this section shall contain a provision making payments thereunder subject to the annual appropriation of funds sufficient to meet the required payments or shall contain an annual cancellation clause and shall require all construction contracts let by public school districts or let by developers or owners of property used for school purposes to be competitively bid, pursuant to N.J.S.18A:18A-1 et seq.;

(g) Establish with an individual or entity authorized to do business in the State a tenancy in common, condominium, horizontal property regime or other joint ownership arrangement on a site contributed by the school district; provided the following conditions are met:

(1) The individual or entity agrees to construct on the site, or provide for the construction thereon, a building or buildings for use of the board of

education separately or jointly with the individual or entity, which shall be subject to the joint ownership arrangement;

(2) The provision of the building shall be at no cost or at a reduced cost to the board of education;

(3) The school district shall not make any payment for use of the building other than its pro rata share of costs of maintenance and improvements;

(4) The noneducational uses of the building are compatible with the establishment and operation of a school, as determined by the Commissioner of Education;

(5) The portion of the building to be used as a school, and the site, meet regulations of the Department of Education; and

(6) Any such agreement shall be approved by the Commissioner of Education and the Local Finance Board in the Department of Community Affairs;

(h) Acquire through sale and lease-back textbooks and nonconsumable instructional materials provided that the sale price and principal amount of the lease-back do not exceed the fair market value of the textbooks and instructional materials and that the interest rate applied in the lease-back is consistent with prevailing market rates or is less.

8. Section 9 of P.L.2007, c.62 (C.40A:4-45.44) is amended to read as follows:

C.40A:4-45.44 Definitions relative to property tax levy cap concerning local units.

9. For the purposes of sections 9 through 13 of P.L.2007, c.62 (C.40A:4-45.44 through C.40A:4-45.47 and C.40A:4-45.3e):

"Adjusted tax levy" means an amount not greater than the amount to be raised by taxation of the previous fiscal year, less any waivers from a prior fiscal year required to be deducted by the Local Finance Board pursuant to section 11 of P.L.2007, c.62 (C.40A:4-45.46), that result multiplied by 1.02, to which the sum of exclusions defined in subsection b. of section 10 of P.L.2007, c.62 (C.40A:4-45.45) shall be added.

"Amount to be raised by taxation" means the property tax levy set in the annual budget of a local unit.

"Local unit" means a municipality, county, fire district, or solid waste collection district, but shall not include a municipality that had a municipal purposes tax rate of $0.10 or less per $100 for the previous tax year.

"New ratables" means the product of the taxable value of any new construction or improvements times the tax rate of a local unit for its previous tax year.

9. Section 10 of P.L.2007, c.62 (C.40A:4-45.45) is amended to read as follows:

C.40A:4-45.45 Cap on calculation of adjusted tax levy by local unit; exclusions.

10. a. (1) In the preparation of its budget the amount to be raised by taxation by a local unit shall not exceed, except as provided in paragraph (2) of this subsection, the sum of new ratables, the adjusted tax levy, and the total of waivers approved pursuant to section 11 of P.L.2007, c.62 (C.40A:4-45.46); provided, however, that in the case of a county, the amount to be raised by taxation shall not exceed the amount permitted by section 4 of P.L.1976, c.68 (C.40A:4-45.4).

(2) A local unit that has not been granted approval for a waiver pursuant to section 11 of P.L.2007, c.62 (C.40A:4-45.46), may add to its adjusted tax levy in any one of the next three succeeding years, the amount of the difference between the maximum allowable amount to be raised by taxation or county purposes tax, as applicable, for the current local budget year pursuant to paragraph (1) of this subsection and the actual amount to be raised by taxation or county purposes tax, as applicable, for the current local budget year.

b. The following exclusions shall be added to the calculation of the adjusted tax levy:

increases in amounts required to be raised by taxation for capital expenditures, including debt service as defined by law; increases in pension contributions and accrued liability for pension contributions in excess of 2.0%; increases in health care costs equal to that portion of the actual increase in total health care costs for the budget year that is in excess of 2.0% of the total health care costs in the prior year, but is not in excess of the product of the total health care costs in the prior year and the average percentage increase of the State Health Benefits Program, P.L.1961, c.49 (C.52:14-17.25 et seq.), as annually determined by the Division of Pensions and Benefits in the Department of the Treasury; and extraordinary costs incurred by a local unit directly related to a declared emergency, as defined by regulation promulgated by the Commissioner of the Department of Community Affairs, in consultation with the Commissioner of Education, as appropriate.

If there are no exclusions, then the amount of the difference shall reduce the adjusted tax levy by that amount. Any cancelled or unexpended appropriation for any exclusion pursuant to this subsection or waiver pursuant to section 11 of P.L.2007, c.62 (C.40A:4-45.46), also shall be deducted from the sum of the exclusions listed in this subsection or directly reduce the adjusted tax levy if there are no exclusions.

10. Section 11 of P.L.2007, c.62 (C.40A:4-45.46) is amended to read as follows:

C.40A:4-45.46 Public question submitted for approval to raise taxes above the limitation allowable.

11. a. (Deleted by amendment, P.L.2009, c.44)

b. (1) The governing body of a local unit may request approval, through a public question submitted to the legal voters residing in its territory to increase the amount to be raised by taxation by more than the allowable adjusted tax levy. Approval shall be by an affirmative vote of in excess of 50 percent of the people voting on the question at the election. The local unit budget proposing the increase shall be introduced and approved in the manner otherwise provided for budgets of that local unit at least 20 days prior to the date on which the referendum is to be held, and shall be published in the manner otherwise provided for budgets of the local unit at least 12 days prior to the referendum date, unless otherwise directed by the Director of the Division of Local Government Services in the Department of Community Affairs.

(2) The public question to be submitted to the voters at the referendum shall state only the amount by which the adjusted tax levy shall be increased by more than the otherwise allowable adjusted tax levy, and the percentage rate of increase which that amount represents over the allowable adjusted tax levy. The public question shall include an accompanying explanatory statement that identifies the changes in appropriations or revenues that warranted the governing body's decision to ask the public question; or, in the alternative and subject to the approval of the Director of the Division of Local Government Services in the Department of Community Affairs, a clear and concise narrative explanation of the circumstances for the increased adjusted tax levy being proposed.

(3) Unless otherwise provided pursuant to section 1 of P.L.1989, c.31 (C.40A:4-5.1), a referendum conducted pursuant to this subsection shall be held:

(a) for calendar year budgets only on the fourth Tuesday in January and the second Tuesday in March other than in a year when a presidential primary election occurs, in which case no such election on that date may be called; and

(b) for fiscal year budgets, only the last Tuesday in September, or the second Tuesday in December;

provided, however, that no referendum shall be held on the same day as a referendum to exceed the school district levy cap.

(4) Any decision of the voters rejecting an increase to the tax levy cap under this subsection shall be final and conclusive, and no appeal or review shall be taken therefrom and no waiver application shall be made to the Local Finance Board.

(5) The director is authorized to act as necessary in order to consolidate ballot questions and procedures when a governing body elects to hold a referendum under both this section and section 9 of P.L.1983, c.49 (C.40A:4-45.16).

c. (Deleted by amendment, P.L.2010, c.44)

d. The adjusted tax levy shall be increased or decreased accordingly whenever the responsibility and associated cost of an activity performed by a local unit is transferred to or from a local unit, other government entity, or other service provider.

11. Section 47 of P.L.2007, c.62 is amended to read as follows:

47. This act shall take effect immediately; provided, however, section 13 shall be retroactive to July 1, 2006, and sections 19 through 40 shall first apply to claims for rebates and credits for property taxes paid for the tax year 2006.

Repealer.

12. The following sections are repealed:

Section 36 of P.L.2000, c.126 (C.18A:7F-5a);

Section 3 of P.L.2003, c.92 (C.18A:7F-5b);

Section 1 of P.L.1997, c.232 (C.18A:7F-5.1);

Section 5 of P.L.2007, c.62 (C.18A:7F-40);

Section 17 of P.L.2007, c.260 (C.18A:7F-59).

13. This act shall take effect immediately and shall be applicable to the next local budget year following enactment.

Approved July 13, 2010.

CHAPTER 45

AN ACT designating that portion of New Jersey Route 47 in the borough of Glassboro, in the county of Gloucester, as the "South Jersey Vietnam Veterans' Highway".

WHEREAS, With the passage of so many years since the end of the Vietnam conflict, it is incumbent upon the State of New Jersey to reflect upon the brave services of the members of the Armed Forces of the United States who served in that conflict; and

WHEREAS, Although the State has established the New Jersey Vietnam Veterans' Memorial on the Garden State Parkway, to be perpetually maintained by the New Jersey Turnpike Authority, "to pay tribute to the sacrifices that were made and to commemorate the courage that was shown," a special tribute is appropriate for those Vietnam veterans residing in South Jersey; and

WHEREAS, The South Jersey Vietnam Veterans Association, which meets at the Glassboro VFW Memorial Post 679, is celebrating its 25th Anniversary, and it is fitting and proper for the State to recognize that association and the service of Vietnam veterans by designating New Jersey Route 47 in the borough of Glassboro, as the "South Jersey Vietnam Veterans' Highway"; now, therefore,

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. The Commissioner of Transportation shall designate that portion of New Jersey Route 47 in the borough of Glassboro in the county of Gloucester, as the "South Jersey Vietnam Veterans' Highway."

2. The Commissioner of Transportation is authorized to erect appropriate route and directional signs bearing this name.

3. No State or other public funds shall be used for producing, purchasing, or erecting signs bearing the designation established pursuant to section 1 of this act. The Commissioner of Transportation is authorized to receive gifts, grants or other financial assistance from private sources for the purpose of funding or reimbursing the Department of Transportation for the costs associated with producing, purchasing, and erecting signs bearing the designation established pursuant to section 1 of this act and entering into agreements related thereto, with such private sources, including but not limited to non-governmental non-profit, educational or charitable entities or institutions. No work shall proceed, and no funding shall be accepted by the Department of Transportation until an agreement has been reached with a responsible party for paying the costs associated with producing, purchasing, erecting and maintaining the signs.

4. This act shall take effect immediately.

Approved July 29, 2010.

CHAPTER 46

AN ACT concerning contractually required severance liabilities and amending N.J.S.40A:4-53.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. N.J.S.40A:4-53 is amended to read as follows:

Special emergency appropriations.

40A:4-53. A local unit may adopt an ordinance authorizing special emergency appropriations for the carrying out of any of the following purposes:

a. Preparation of an approved tax map.

b. Preparation and execution of a complete program of revaluation of real property for the use of the local assessor, or of any program to update and make current any previous revaluation program when such is ordered by the county board of taxation.

c. Preparation of a revision and codification of its ordinances.

d. Engagement of special consultants for the preparation, and the preparation of a master plan or plans, when required to conform to the planning laws of the State.

e. Preparation of drainage maps for flood control purposes.

f. Preliminary engineering studies and planning necessary for the installation and construction of a sanitary sewer system.

g. Authorized expenses of a consolidation commission established pursuant to the "Municipal Consolidation Act," P.L.1977, c.435 (C.40:43-66.35 et seq.).

h. Contractually required severance liabilities resulting from the layoff or retirement of employees. Such liabilities shall be paid without interest and, at the sole discretion of the local unit, may be paid in equal annual installments over a period not to exceed five years.

i. Preparation of a sanitary or storm system map.

A copy of all ordinances or resolutions as adopted relating to special emergency appropriations shall be filed with the director.

2. This act shall take effect immediately.

Approved July 29, 2010.

CHAPTER 47

AN ACT appropriating $1,279,941 from the "Garden State Historic Preservation Trust Fund" and certain historic preservation bond funds for the purpose of making historic site management grants, as awarded by the New Jersey Historic Trust, for certain historic preservation projects.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. a. There is appropriated to the New Jersey Historic Trust the following sums for the purpose of providing historic site management grants as listed in subsection b. of this section, as awarded by the New Jersey Historic Trust, for historic preservation projects approved as eligible for such funding:

(1) $1,223,495 from the "Garden State Historic Preservation Trust Fund" established pursuant to section 21 of the "Garden State Preservation Trust Act," P.L.1999, c.152 (C.13:8C-21);

(2) $18,065 from the "1995 Historic Preservation Fund" established pursuant to section 26 of the "Green Acres, Farmland and Historic Preservation, and Blue Acres Bond Act of 1995," P.L.1995, c.204;

(3) $22,381 from the "1992 Historic Preservation Fund" established pursuant to section 25 of the "Green Acres, Clean Water, Farmland and Historic Preservation Bond Act of 1992," P.L.1992, c.88; and

(4) $16,000 from the "Cultural Centers and Historic Preservation Fund" established pursuant to section 20 of the "New Jersey Green Acres, Cultural Centers and Historic Preservation Bond Act of 1987," P.L.1987, c.265.

b. The following projects are eligible for funding in the form of historic site management grants with the moneys appropriated pursuant to subsection a. of this subsection:

County	Municipality	Name of Organization	Project Name	Grant Award
Atlantic	Estell Manor City	Atlantic County Division of Parks and Recreation	Bethlehem Loading Company-Estell Manor Park	$30,000
Atlantic	Linwood City	Linwood City	Linwood Borough School #1	18,000
Bergen	Oradell Boro	Bergen County Division of Cultural & Historic Affairs	New Milford Plant of the Hackensack Water Works	50,000
Burlington	Fieldsboro Boro	Fieldsboro Boro	White Hill Mansion	23,345
Burlington	Riverton Boro	Christ Church, Riverton	Christ Episcopal Church, Riverton	25,875
Burlington	Willingboro Twp	Willingboro Twp	Willingboro School House	12,413
Camden	Camden City	Camden Area Health Education Center, Inc.	Read House	50,000
Camden	Haddonfield Boro	Friends of the Indian King Tavern	Indian King Tavern	50,000
Cape May	Cape May City	Mid-Atlantic Center for the Arts	Emlen Physick House	30,600
Cape May	Middle Twp	Goshen Volunteer Fire Company	Goshen Public School	30,000
Cumberland	Bridgeton City	City of Bridgeton	Cumberland Nail and Iron Works Office	15,109
Cumberland	Bridgeton City	Friends of the Bridgeton Library	Cumberland Bank Building/Bridgeton Library	15,000
Cumberland	Commercial Twp	Bayshore Discovery Project	Bivalve Shipping Sheds & Wharves	50,000
Essex	Bloomfield Twp	Bloomfield Presbyterian Church on the Green	Bloomfield Presbyterian Church	50,000
Essex	Newark City	Newark Performing Arts Corporation, Inc.	Newark Symphony Hall	50,000
Essex	South Orange Village Twp	South Orange Public Library	Connett Memorial Library	50,000
Essex and Union	Hillside Twp	Evergreen Cemetery and Crematory	Evergreen Cemetery	50,000
Gloucester	Wenonah Boro	Memorial Presbyterian Church, Wenonah	Memorial Presbyterian Church of Wenonah	15,750
Hudson	Bayonne City	City of Bayonne	Bayonne Trust Company	15,000

Hudson	Hoboken City	Hoboken Historical Museum and Cultural Center	Sybil's Cave	15,750
Hudson	Jersey City	Save Ellis Island, Inc.	Ellis Island Recreation Building	50,000
Hunterdon	Delaware Twp	Delaware Twp	Sergeantsville Hotel	28,538
Mercer	Ewing Twp	First Presbyterian Church of Ewing	First Presbyterian Church of Ewing	50,000
Mercer	Pennington Boro	Pennington Presbyterian Church	First Presbyterian Church of Pennington	40,221
Middlesex	Edison Twp	Edison Memorial Tower Corporation	Edison Memorial Tower	18,000
Monmouth	Allentown Boro	Allentown Presbyterian Church	Allentown Presbyterian Church	15,000
Monmouth	Atlantic Highlands Boro	Atlantic Highlands Historical Society	Strauss Mansion	27,000
Morris	Morristown Town	Morris County Tourism Bureau	Morris County Wayfinding Program	50,000
Ocean	Barnegat Twp	Ocean County Cultural & Heritage Commission	Cedar Bridge Tavern	49,500
Ocean	Tuckerton Boro	Barnegat Bay Decoy & Baymen Museum	Bartlett-Rockhill House	35,616
Passaic	Paterson City	Friends of Hinchliffe Stadium	Hinchliffe Stadium	31,823
Passaic	Paterson City	Paterson City	Downtown Commercial Historic District	18,000
Somerset	Franklin Twp	Franklin Township	Cornelius Stoothoff Farmstead	50,000
Sussex	Vernon Twp	Vernon Township Historical Society	Black Creek Site	18,750
Warren	Hardwick Twp	Hardwick Township Historical Society, Inc.	Vass Farmstead	24,170
Warren	Harmony Twp	Harmony Township Historic Preservation Commission	Hoff-Vannatta Farmstead	47,000
Warren	Knowlton Twp	Knowlton Township Historic Commission	Ramsaysburg Homestead	34,481
Warren	Lopatcong Twp	Warren County-Planning Department	Inclined Plane #10 West	45,000
TOTAL				**$1,279,941**

c. Any transfer of any funds, or change in project sponsor, site, or type, listed in subsection b. of this section shall require the approval of the Joint Budget Oversight Committee or its successor.

d. To the extent that moneys remain available after the projects listed in subsection b. of this section are offered funding pursuant thereto, any

project of a local government unit or qualifying tax exempt nonprofit organization that previously received funding for historic preservation purposes appropriated or reappropriated from any Green Acres bond act, any annual appropriations act, or the Garden State Historic Preservation Trust Fund, shall be eligible to receive additional funding, as determined by the New Jersey Historic Trust, subject to the approval of the Joint Budget Oversight Committee or its successor.

For the purposes of this subsection, "Green Acres bond act" means P.L.2007, c.119, P.L.1995, c.204, P.L.1992, c.88, and P.L.1987, c.265.

2. This act shall take effect immediately.

Approved July 29, 2010.

CHAPTER 48

AN ACT establishing the New Jersey Epilepsy Task Force.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. The Legislature finds and declares that:

a. Epilepsy is the medical term used to describe a pattern of recurring seizures where an individual has no way of controlling bodily functions or unusual behavior;

b. About 2.7 million Americans have epilepsy, with 30% of that population being children under the age of 18; one in 10 people will have a seizure in their lifetime, and this year another 200,000 people in the U.S. will be diagnosed with epilepsy;

c. According to the Epilepsy Foundation of New Jersey, epilepsy is more common than cerebral palsy, multiple sclerosis, and Parkinson's disease combined;

d. Epilepsy can strike anyone at anytime, and in 70% of all cases, no known cause exists; and although modern treatment methods can achieve full or partial control of seizures in 85% of all cases, some seizure disorders are resistant to current therapies;

e. According to the Epilepsy Foundation of New Jersey, epilepsy is prevalent among persons with other disabilities, such as autism, cerebral palsy, Down syndrome, and intellectual disabilities; 40% of people who have both cerebral palsy and intellectual disabilities, also have epilepsy;

f. There is a strong association between epilepsy and depression. More than one of every three persons with epilepsy are also affected by depression, and persons with a history of depression are three to seven times more likely to develop epilepsy than persons who do not have a history of depression;

g. The public often perceives epileptic seizures as signs of intellectual disability, mental illness, and dangerous aggression. Because of this public perception, there is a 30% unemployment rate in adults with the disorder, who are physically able to work; nationally, epilepsy results in an estimated annual cost of $15.5 billion in medical costs and lost or reduced earnings and production;

h. To improve the quality of life for those living with seizure disorders, the Epilepsy Foundation of America recognizes the need for more research to discover the causes of epilepsy, to improve diagnostic strategies, and to develop new drugs; and

i. Therefore, it is in the public interest for the State to establish an Epilepsy Task Force to enhance public and professional awareness about this disorder.

2. a. There is established the New Jersey Epilepsy Task Force in the Department of Health and Senior Services.

The purpose of the task force shall be to:

(1) develop recommendations to educate the public and health care professionals about screening, diagnosis, and treatment of epilepsy and its complications; and

(2) develop recommendations to address psychosocial issues faced by persons with epilepsy, such as, depression, stigmatization, and discrimination.

b. The task force shall consist of 13 members as follows:

(1) the Commissioners of Health and Senior Services and Human Services, or their designees, who shall serve ex officio; and

(2) 11 public members, who shall be appointed by the Governor as follows: two neurologists licensed to practice medicine in this State, one of whom specializes in pediatric neurology; one person upon the recommendation of the Epilepsy Foundation of New Jersey; two persons who represent agencies that provide services to persons with epilepsy in this State; one school nurse; two persons who have epilepsy; one parent of a person who has epilepsy; one member of the public with a demonstrated expertise in issues relating to the work of the task force; and one consultant pharmacist. No public member of the task force shall be associated, directly or indirectly, with any pharmaceutical manufacturer.

Vacancies in the membership of the task force shall be filled in the same manner provided for the original appointments.

c. The task force shall organize within 120 days following the appointment of a majority of its members and shall select a chairperson and vice-chairperson from among the members. The chairperson shall appoint a secretary who need not be a member of the task force.

d. The public members shall serve without compensation, but shall be reimbursed for necessary expenses incurred in the performance of their duties and within the limits of funds available to the task force.

e. The task force shall be entitled to call to its assistance and avail itself of the services of the employees of any State, county or municipal department, board, bureau, commission or agency as it may require and as may be available to it for its purposes.

f. The task force may meet and hold hearings as it deems appropriate.

g. The Department of Health and Senior Services shall provide staff support to the task force.

3. The task force shall report its findings and recommendations to the Governor, and to the Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), along with any legislative bills that it desires to recommend for adoption by the Legislature, no later than 12 months after the initial meeting of the task force.

4. This act shall take effect immediately and shall expire upon the issuance of the task force report.

Approved July 29, 2010.

CHAPTER 49

AN ACT concerning school district audits and amending N.J.S.18A:23-1.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. N.J.S.18A:23-1 is amended to read as follows:

Audit, when and how made.

18A:23-1. The board of education of every school district shall cause an annual audit of the district's accounts and financial transactions to be

made by a public school accountant employed by it, which audit shall be completed not later than 5 months after the end of the school fiscal year.

2. This act shall take effect immediately.

Approved July 29, 2010.

CHAPTER 50

AN ACT concerning terminology referring to persons with various disabilities and revising parts of statutory law.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Section 27 of P.L.1982, c.77 (C.2A:4A-46) is amended to read as follows:

C.2A:4A-46 Disposition of juvenile-family crisis.

27. a. The court may order any disposition in a juvenile-family crisis provided for in paragraphs (2), (4), (5), (6), (7) and (13) of subsection b. of section 24 of P.L.1982, c.77 (C.2A:4A-43) or other disposition specifically provided for in P.L.1982, c.80 (C.2A:4A-76 et seq.).

b. No juvenile involved in a juvenile-family crisis shall be committed to or placed in any institution or facility established for the care of delinquent children or in any facility, other than an institution for persons with intellectual disabilities, a mental hospital or facility for the care of persons addicted to controlled dangerous substances, which physically restricts such juvenile committed to or placed in it.

2. Section 3 of P.L.1977, c.200 (C.5:5-44.4) is amended to read as follows:

C.5:5-44.4 Determination of organizations to receive moneys by developmental disabilities council.

3. The New Jersey State Developmental Disabilities Council shall determine annually which organizations in New Jersey shall receive the moneys to be distributed pursuant to section 2 of this supplemental act; provided, however, that such organizations shall be nonprofit organizations which expend funds for direct services in full-time programs to New Jersey residents who are developmentally disabled, and provided further, however,

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that each such organization shall be affiliated with a national organization of the same type and purpose. As used herein, "developmentally disabled" means a disability of a person which (1) is attributable to:

(a) an intellectual disability, cerebral palsy, epilepsy or autism;

(b) any other condition found to be closely related to an intellectual disability because such condition results in impairment of general intellectual functioning or adaptive behavior similar to impairment resulting from an intellectual disability or which requires treatment and services similar to those required for an intellectual disability; or

(c) dyslexia resulting from a disability described in subparagraphs (a) and (b);

(2) originates before such person attains age 18;

(3) has continued or can be expected to continue indefinitely; and

(4) constitutes a substantial handicap to such person's ability to function normally in society.

3. Section 6 of P.L.1938, c.366 (C.17:48-6) is amended to read as follows:

C.17:48-6 Contracts; certificates; contents.

6. Every individual contract made by a corporation subject to the provisions of this chapter to furnish services to a subscriber shall provide for the furnishing of services for a period of 12 months, and no contract shall be made providing for the inception of such services at a date later than 1 year after the actual date of the making of such contract. Any such contract may provide that it shall be automatically renewed from year to year unless there shall have been at least 30 days' prior written notice of termination by either the subscriber or the corporation. In the absence of fraud or material misrepresentation in the application for a contract or for reinstatement, no contract with an individual subscriber shall be terminated by the corporation unless all contracts of the same type, in the same group or covering the same classification of persons are terminated under the same conditions.

No contract between any such corporation and a subscriber shall entitle more than one person to services, except that a contract issued as a family contract may provide that services will be furnished to a husband and wife, or husband, wife and their dependent child or children, or the subscriber and his (or her) dependent child or children. Adult dependent(s) of a subscriber may also be included for coverage under the contract of such subscriber.

Whenever, pursuant to the provisions of a subscription certificate or group contract issued by a corporation, the former spouse of a named sub-

scriber under such a certificate or contract is no longer entitled to coverage as an eligible dependent by reason of divorce, separate coverage for such former spouse shall be made available by the corporation on an individual non-group basis under the following conditions:

(a) Application for such non-group coverage shall be made to the corporation by or on behalf of such former spouse no later than 31 days following the date his or her coverage under the prior certificate or contract terminated.

(b) No new evidence of insurability shall be required in connection with the application for such non-group coverage but any health exception, limitation or exclusion applicable to said former spouse under the prior coverage may, at the option of the corporation, be carried over to the new non-group coverage.

(c) The effective date of the new coverage shall be the day following the date on which such former spouse's coverage under the prior certificate or contract terminated.

(d) The benefits provided under the non-group coverage issued to such former spouse shall be at least equal to the basic benefits provided in contracts then being issued by the corporation to new non-group applicants of the same age and family status.

Family type contracts shall provide that the services applicable for children shall be payable with respect to a newly-born child of the subscriber, or his or her spouse from the moment of birth. The services for newly-born children shall consist of coverage of injury or sickness including the necessary care and treatment of medically diagnosed congenital defects and abnormalities. If a subscription payment is required to provide services for a child, the contract may require that notification of birth of a newly-born child and the required payment must be furnished to the service corporation within 31 days after the date of birth in order to have the coverage continue beyond such 31-day period.

Nonfamily type contracts which provide for services to the subscriber but not to family members or dependents of that subscriber, shall also provide services to newly-born children of the subscriber which shall commence with the moment of birth of each child and shall consist of coverage of injury or sickness including the necessary care and treatment of medically diagnosed congenital defects and abnormalities, provided that application therefor and payment of the required subscription amount are made to include in said contract the coverage described in the preceding paragraph of this section within 31 days from the date of birth of a newborn child.

A contract under which coverage of a dependent of a subscriber terminates at a specified age shall, with respect to an unmarried child, covered by the contract prior to attainment of age 19, who is incapable of self-sustaining employment by reason of an intellectual disability or physical handicap and who became so incapable prior to attainment of age 19 and who is chiefly dependent upon such subscriber for support and maintenance, not so terminate while the contract remains in force and the dependent remains in such condition, if the subscriber has within 31 days of such dependent's attainment of the termination age submitted proof of such dependent's incapacity as described herein. The foregoing provisions of this paragraph shall not apply retrospectively or prospectively to require a hospital service corporation to insure as a covered dependent any child with an intellectual disability or physically handicapped child of the applicant where the contract is underwritten on evidence of insurability based on health factors required to be set forth in the application. In such cases any contract heretofore or hereafter issued may specifically exclude such child with an intellectual disability or physically handicapped child from coverage.

Every individual contract entered into by any such corporation with any subscriber thereto shall be in writing and a certificate stating the terms and conditions thereof shall be furnished to the subscriber to be kept by him. No such certificate form shall be made, issued or delivered in this State unless it contains the following provisions:

(a) A statement of the contract rate, or amount payable to the corporation by or on behalf of the subscriber for the original quarter-annual period of coverage and of the time or times at which, and the manner in which, such amount is to be paid; and a provision requiring 30 days' written notice to the subscriber before any change in the contract, including a change in the amount of subscription rate, shall take effect;

(b) A statement of the nature of the services to be furnished and the period during which they will be furnished; and if there are any services to be excepted, a detailed statement of such exceptions printed as hereinafter specified;

(c) A statement of the terms and conditions, if any, upon which the contract may be amended on approval of the commissioner or canceled or otherwise terminated at the option of either party. Any notice to the subscriber shall be effective if sent by mail to the subscriber's address as shown at the time on the plan's record, except that, in the case of persons for whom payment of the contract is made through a remitting agent, any such notice to the subscriber shall also be effective if a personalized notice is sent to the remitting agent for delivery to the subscriber, in which case it shall be the

responsibility of the remitting agent to make such delivery. The notice to the subscriber as herein required shall be sent at least 30 days before the amendment, cancellation or termination of the contract takes effect. Any rider or endorsement accompanying such notice, and amending the rates or other provisions of the contract, shall be deemed to be a part of the contract as of the effective date of such rider or endorsement;

(d) A statement that the contract includes the endorsements thereon and attached papers, if any, and contains the entire contract for services;

(e) A statement that no statement by the subscriber in his application for a contract shall avoid the contract or be used in any legal proceeding thereunder, unless such application or an exact copy thereof is included in or attached to such contract, and that no agent or representative of such corporation, other than an officer or officers designated therein, is authorized to change the contract or waive any of its provisions;

(f) A statement that if the subscriber defaults in making any payment under the contract, the subsequent acceptance of a payment by the corporation or by one of its duly authorized agents shall reinstate the contract, but with respect to sickness and injury may cover such sickness as may be first manifested more than 10 days after the date of such acceptance;

(g) A statement of the period of grace which will be allowed the subscriber for making any payment due under the contract. Such period shall be not less than 10 days.

In every such contract made, issued or delivered in this State:

(a) All printed portions shall be plainly printed in type of which the face is not smaller than 10 point;

(b) There shall be a brief description of the contract on its first page and on its filing back in type of which the face is not smaller than 14 point;

(c) The exceptions of the contract shall appear with the same prominence as the benefits to which they apply; and

(d) If the contract contains any provision purporting to make any portion of the articles, constitution or bylaws of the corporation a part of the contract, such portion shall be set forth in full.

4. Section 2 of P.L.1964, c.104 (C.17:48-6.1) is amended to read as follows:

C.17:48-6.1 Group contracts issued by hospital service corporation.

2. A hospital service corporation may issue to a policyholder a group contract, covering at least two employees or members at the date of issue, if it conforms to the following description:

(a) A contract issued to an employer or to the trustees of a fund established by one or more employers, or issued to a labor union, or issued to an association formed for purposes other than obtaining such contract, or issued to the trustees of a fund established by one or more labor unions, or by one or more employers and one or more labor unions, covering employees and members of associations or labor unions.

(b) A contract issued to cover any other group which the Commissioner of Banking and Insurance determines may be covered in accordance with sound underwriting principles.

Benefits may be provided for one or more members of the families or one or more dependents of persons who may be covered under a group contract referred to in (a) or (b) above.

Family type contracts shall provide that the services applicable for children shall be payable with respect to a newly-born child of the subscriber, or his or her spouse from the moment of birth. The services for newly-born children shall consist of coverage of injury or sickness including the necessary care and treatment of medically diagnosed congenital defects and abnormalities. If a subscription payment is required to provide services for a child, the contract may require that notification of birth of a newly-born child and the required payment must be furnished to the service corporation within 31 days after the date of birth in order to have the coverage continue beyond such 31-day period.

Group contracts which provide for services to the subscriber but not to family members or dependents of that subscriber, other than contracts which provide no dependent coverage whatsoever for the subscriber's class, shall also provide services to newly-born children of the subscriber which shall commence with the moment of birth of each child and shall consist of coverage of injury or sickness including the necessary care and treatment of medically diagnosed congenital defects and abnormalities, provided that application therefor and payment of the required subscription amount are made to include in said contract the coverage described in the preceding paragraph of this section within 31 days from the date of birth of a newborn child.

A contract under which coverage of such a dependent terminates at a specified age shall, with respect to an unmarried child, covered by the contract prior to attainment of age 19, who is incapable of self-sustaining employment by reason of intellectual disability or physical handicap and who became so incapable prior to attainment of age 19 and who is chiefly dependent upon the covered employee or member for support and maintenance, not so terminate while the coverage of the employee or member remains in force and the dependent remains in such conditions, if the em-

ployee or member has within 31 days of such dependent's attainment of the termination age submitted proof of such dependent's incapacity as described herein. The foregoing provisions of this paragraph shall not apply retrospectively or prospectively to require a hospital service corporation to insure as a covered dependent any child with an intellectual disability or physical handicap of the applicant where the contract is underwritten on evidence of insurability based on health factors required to be set forth in the application. In such cases any contract heretofore or hereafter issued may specifically exclude such child with an intellectual disability or physical handicap from coverage.

Any group contract which contains provisions for the payment by the insurer of benefits for members of the family or dependents of a person in the insured group shall provide that, subject to payment of the appropriate premium, such family members or dependents be permitted to have coverage continued for at least 180 days after the death of the person in the insured group.

The contract may provide that the term "employees" shall include as employees of a single employer the employees of one or more subsidiary corporations and the employees, individual proprietors and partners of affiliated corporations, proprietorships and partnerships if the business of the employer and such corporations, proprietorships or partnerships is under common control through stock ownership, contract or otherwise. The contract may provide that the term "employees" shall include the individual proprietor or partners of an individual proprietorship or a partnership. The contract may provide that the term "employees" shall include retired employees. A contract issued to trustees may provide that the term "employees" shall include the trustees or their employees, or both, if their duties are principally connected with such trusteeship. A contract issued to the trustees of a fund established by the members of an association of employers may provide that the term "employees" shall include the employees of the association.

5. Section 5 of P.L.1940, c.74 (C.17:48A-5) is amended to read as follows:

C.17:48A-5 Subscription contracts.

5. Every individual contract made by any corporation subject to the provisions of this chapter to provide payment for medical services shall provide for the payment of medical services for a period of 12 months from the date of issue of the subscription certificate. Any such contract may pro-

vide that it shall be automatically renewed from year to year unless there shall have been 1 month's prior written notice of termination by either the subscriber or the corporation. In the absence of fraud or material misrepresentation in the application for contract or for reinstatement, no contract with an individual subscriber shall be terminated by the corporation unless all contracts of the same type, in the same group or covering the same classification of persons are terminated under the same conditions. No contract between such corporation and subscriber shall allow for the payment for medical services for more than one person, except that a family contract may provide that payment will be made for medical services rendered to a subscriber and any of those dependents defined in section 1 of this act.

Whenever, pursuant to the provisions of a subscription certificate or group contract issued by a corporation, the former spouse of a named subscriber under such a certificate or contract is no longer entitled to coverage as an eligible dependent by reason of divorce, separate coverage for such former spouse shall be made available by the corporation on an individual nongroup basis under the following conditions:

(a) Application for such nongroup coverage shall be made to the corporation by or on behalf of such former spouse no later than 31 days following the date his or her coverage under the prior certificate or contract terminated.

(b) No new evidence of insurability shall be required in connection with the application for such nongroup coverage but any health exception, limitation or exclusion applicable to said former spouse under the prior coverage may, at the option of the corporation, be carried over to the new nongroup coverage.

(c) The effective date of the new coverage shall be the day following the date on which such former spouse's coverage under the prior certificate or contract terminated.

(d) The benefits provided under the nongroup coverage issued to such former spouse shall be at least equal to the basic benefits provided in contracts then being issued by the corporation to new nongroup applicants of the same age and family status.

Family type contracts shall provide that the services applicable for children shall be payable with respect to a newly-born child of the subscriber, or his or her spouse from the moment of birth. The services for newly-born children shall consist of coverage of injury or sickness including the necessary care and treatment of medically diagnosed congenital defects and abnormalities. If a subscription payment is required to provide services for a child, the contract may require that notification of birth of a

newly-born child and the required payment shall be furnished to the service corporation within 31 days after the date of birth in order to have the coverage continue beyond such 31-day period.

Nonfamily type contracts which provide for services to the subscriber but not to family members or dependents of that subscriber, shall also provide services to newly-born children of the subscriber which shall commence with the moment of birth of each child and shall consist of coverage of injury or sickness including the necessary care and treatment of medically diagnosed congenital defects and abnormalities, provided that application therefor and payment of the required subscription amount are made to include in said contract the coverage described in the preceding paragraph of this section within 31 days from the date of birth of a newborn child.

A contract under which coverage of a dependent of a subscriber terminates at a specified age shall, with respect to an unmarried child, covered by the contract prior to attainment of age 19, who is incapable of self-sustaining employment by reason of intellectual disability or physical handicap and who became so incapable prior to attainment of age 19 and who is chiefly dependent upon such subscriber for support and maintenance, not so terminate while the contract remains in force and the dependent remains in such condition, if the subscriber has within 31 days of such dependent's attainment of the termination age submitted proof of such dependent's incapacity as described herein. The foregoing provisions of this paragraph shall not apply retrospectively or prospectively to require a medical service corporation to insure as a covered dependent any child with an intellectual disability or physical handicap of the applicant where the contract is underwritten on evidence of insurability based on health factors, required to be set forth in the application. In such cases any contract heretofore or hereafter issued may specifically exclude such child with an intellectual disability or physical handicap from coverage.

6. Section 1 of P.L.1964, c.105 (C.17:48A-7.1) is amended to read as follows:

C.17:48A-7.1 Group contracts; issuance; description; benefits; employees defined.

1. A medical service corporation may issue to a policyholder a group contract, covering at least 10 employees or members at the date of issue, if it conforms to the following description:

(a) A contract issued to an employer or to the trustees of a fund established by one or more employers, or issued to a labor union, or issued to an association formed for purposes other than obtaining such contract, or is-

sued to the trustees of a fund established by one or more labor unions or by one or more employers and one or more labor unions, covering employees and members of associations or labor unions.

(b) A contract issued to cover any other group which the Commissioner of Banking and Insurance (hereinafter called the commissioner) determines may be covered in accordance with sound underwriting principles.

Benefits may be provided for one or more members of the families or one or more dependents of persons who may be covered under a group contract referred to in (a) or (b) above.

Family type contracts shall provide that the services applicable for children shall be payable with respect to a newly-born child of the subscriber, or his or her spouse from the moment of birth. The services for newly-born children shall consist of coverage of injury or sickness including the necessary care and treatment of medically diagnosed congenital defects and abnormalities. If a subscription payment is required to provide services for a child, the contract may require that notification of birth of a newly-born child and the required payment must be furnished to the service corporation within 31 days after the date of birth in order to have the coverage continue beyond such 31-day period.

Group contracts which provide for services to the subscriber but not to family members or dependents of that subscriber, other than contracts which provide no dependent coverage whatsoever for the subscriber's class, shall also provide services to newly-born children of the subscriber which shall commence with the moment of birth of each child and shall consist of coverage of injury or sickness including the necessary care and treatment of medically diagnosed congenital defects and abnormalities, provided that application therefor and payment of the required subscription amount are made to include in said contract the coverage described in the preceding paragraph of this section within 31 days from the date of birth of a newborn child.

A contract under which coverage of such a dependent terminates at a specified age shall, with respect to an unmarried child, covered by the contract prior to attainment of age 19, who is incapable of self-sustaining employment by reason of intellectual disability or physical handicap and who became so incapable prior to attainment of age 19 and who is chiefly dependent upon the covered employee or member for support and maintenance, not so terminate while the coverage of the employee or member remains in force and the dependent remains in such condition, if the employee or member has within 31 days of such dependent's attainment of the termination age submitted proof of such dependent's incapacity as described herein. The foregoing provisions of this paragraph shall apply retro-

spectively or prospectively to require a medical service corporation to insure as a covered dependent any child with an intellectual disability or physical handicap of the applicant where the contract is underwritten on evidence of insurability based on health factors required to be set forth in the application. In such cases any contract heretofore or hereafter issued may specifically exclude such child with an intellectual disability or physical handicap from coverage.

Any group contract which contains provisions for the payment by the insurer of benefits for members of the family or dependents of a person in the insured group shall, subject to payment of the appropriate premium, provide that such family members or dependents be permitted to have coverage continued for at least 180 days after the death of the person in the insured group.

The contract may provide that the term "employees" shall include as employees of a single employer the employees of one or more subsidiary corporations and the employees, individual proprietors and partners of affiliated corporations, proprietorships and partnerships if the business of the employer and such corporations, proprietorships or partnerships is under common control through stock ownership, contract or otherwise. The contract may provide that the term "employees" shall include the individual proprietor or partners of an individual proprietorship or a partnership. The contract may provide that the term "employees" shall include retired employees. A contract issued to trustees may provide that the term "employees" shall include the trustees or their employees, or both, if their duties are principally connected with such trusteeship. A contract issued to the trustees of a fund established by the members of an association of employers may provide that the term "employees" shall include the employees of the association.

7. Section 22 of P.L.1985, c.236 (C.17:48E-22) is amended to read as follows:

C.17:48E-22 Coverage for child with intellectual disability, physical handicap.

22. Coverage of an unmarried child, covered prior to attainment of age 19 by an individual contract under which coverage terminates at a specified age, who is incapable of self-sustaining employment by reason of intellectual disability or physical handicap and who became so incapable prior to attainment of age 19 and who is chiefly dependent upon the subscriber for support and maintenance, shall not terminate while the contract remains in force and the dependent remains in that condition, if the subscriber has within 31 days of the dependent's attainment of the termination age submit-

ted proof of the dependent's incapacity as described herein. The provisions of this section shall not apply retrospectively or prospectively to require a health service corporation to insure as a covered dependent any child with an intellectual disability or physical handicap of the applicant where the contract is underwritten on evidence of insurability based on health factors required to be set forth in the application. A contract heretofore or hereafter issued may, however, specifically exclude such child with an intellectual disability or physical handicap from coverage.

8. Section 30 of P.L.1985, c.236 (C.17:48E-30) is amended to read as follows:

C.17:48E-30 Group coverage for child with intellectual disability, physical handicap.

30. Coverage of an unmarried child, covered prior to attainment of age 19 by a group contract under which coverage terminates at a specified age, who is incapable of self-sustaining employment by reason of intellectual disability or physical handicap and who became so incapable prior to attainment of age 19 and who is chiefly dependent upon the covered employee or member for support and maintenance, shall not terminate while the coverage of the employee or member remains in force and the dependent remains in that condition, if the employee or member has within 31 days of the dependent's attainment of the termination age submitted proof of the dependent's incapacity as described herein. The provisions of this section shall not apply retrospectively or prospectively to require a health service corporation to insure as a covered dependent any child with an intellectual disability or physical handicap of the applicant where the contract is underwritten on evidence of insurability based on health factors required to be set forth in the application. Any contract heretofore or hereafter issued may, however, specifically exclude a child with an intellectual disability or physical handicap from coverage.

9. N.J.S.17B:26-2 is amended to read as follows:

Form of policy; requirements.

17B:26-2. a. No such policy of insurance shall be delivered or issued for delivery to any person in this State unless:

(1) The entire money and other considerations therefor are expressed therein; and

(2) The time at which the insurance takes effect and terminates is expressed therein; and

(3) It purports to insure only one person, except that a policy may insure, originally or by subsequent amendment, upon the application of an adult member of a family who shall be deemed the policyholder, any two or more eligible members of that family, including husband, wife, dependent children or any children under a specified age which shall not exceed 19 years and any other person dependent upon the policyholder; and

(4) The style, arrangement and over-all appearance of the policy give no undue prominence to any portion of the text, and unless every printed portion of the text of the policy and of any endorsements or attached papers is plainly printed in light-faced type of a style in general use, the size of which shall be uniform and not less than 10-point with a lower-case unspaced alphabet length not less than 120-point (the "text" shall include all printed matter except the name and address of the insurer, name or title of the policy, the brief description if any, and captions and subcaptions); and

(5) The exceptions and reductions of indemnity are set forth in the policy and, except those which are set forth in sections 17B:26-3 to 17B:26-31 inclusive, are printed, at the insurer's option, either included with the benefit provision to which they apply, or under an appropriate caption such as "exceptions," or "exceptions and reductions," provided that if an exception or reduction specifically applies only to a particular benefit of the policy, a statement of such exception or reduction shall be included with the benefit provision to which it applies; and

(6) Each such form, including riders and endorsements, shall be identified by a form number in the lower left-hand corner of the first page thereof; and

(7) It contains no provision purporting to make any portion of the charter, rules, constitution, or bylaws of the insurer a part of the policy unless such portion is set forth in full in the policy, except in the case of the incorporation of, or reference to, a statement of rates or classification of risks, or short-rate table filed with the commissioner.

b. A policy under which coverage of a dependent of the policyholder terminates at a specified age shall, with respect to an unmarried child covered by the policy prior to the attainment of age 19, who is incapable of self-sustaining employment by reason of intellectual disability or physical handicap and who became so incapable prior to attainment of age 19 and who is chiefly dependent upon such policyholder for support and maintenance, not so terminate while the policy remains in force and the dependent remains in such condition, if the policyholder has within 31 days of such dependent's attainment of the limiting age submitted proof of such dependent's incapacity as described herein. The foregoing provisions of this para-

graph shall not require an insurer to insure a dependent who is a child with an intellectual disability or physical handicap where the policy is underwritten on evidence of insurability based on health factors set forth in the application or where such dependent does not satisfy the conditions of the policy as to any requirement for evidence of insurability or other provisions of the policy, satisfaction of which is required for coverage thereunder to take effect. In any such case the terms of the policy shall apply with regard to the coverage or exclusion from coverage of such dependent.

c. Notwithstanding any provision of a policy of health insurance, hereafter delivered or issued for delivery in this State, whenever such policy provides for reimbursement for any optometric service which is within the lawful scope of practice of a duly licensed optometrist, the insured under such policy shall be entitled to reimbursement for such service, whether the said service is performed by a physician or duly licensed optometrist.

d. If any policy is issued by an insurer domiciled in this State for delivery to a person residing in another state, and if the official having responsibility for the administration of the insurance laws of such other state shall have advised the commissioner that any such policy is not subject to approval or disapproval by such official, the commissioner may by ruling require that such policy meet the standards set forth in subsection a. of this section and in sections 17B:26-3 to 17B:26-31 inclusive.

e. Notwithstanding any provision of a policy of health insurance, hereafter delivered or issued for delivery in this State, whenever such policy provides for reimbursement for any psychological service which is within the lawful scope of practice of a duly licensed psychologist, the insured under such policy shall be entitled to reimbursement for such service, whether the said service is performed by a physician or duly licensed psychologist.

f. Notwithstanding any provision of a policy of health insurance, hereafter delivered or issued for delivery in this State, whenever such policy provides for reimbursement for any service which is within the lawful scope of practice of a duly licensed chiropractor, the insured under such policy or the chiropractor rendering such service shall be entitled to reimbursement for such service, when the said service is performed by a chiropractor. The foregoing provision shall be liberally construed in favor of reimbursement of chiropractors.

g. All individual health insurance policies which provide coverage for a family member or dependent of the insured on an expense incurred basis shall also provide that the health insurance benefits applicable for children

shall be payable with respect to a newly born child of that insured from the moment of birth.

(1) The coverage for newly born children shall consist of coverage of injury or sickness including the necessary care and treatment of medically diagnosed congenital defects and birth abnormalities.

(2) If payment of a specific premium is required to provide coverage for a child, the policy may require that notification of birth of a newly born child and payment of the required premium must be furnished to the insurer within 31 days after the date of birth in order to have the coverage continue beyond such 31-day period.

h. All individual health insurance policies which provide coverage on an expense incurred basis but do not provide coverage for a family member or dependent of the insured on an expense incurred basis shall nevertheless provide for coverage of newborn children of the insured which shall commence with the moment of birth of each child and shall consist of coverage of injury or sickness including the necessary care and treatment of medically diagnosed congenital defects and birth abnormalities, provided application therefor and payment of the required premium are made to the insurer to include in said policy coverage the same or similar to that of the insured, described in g. (1) above 31 days from the date of a newborn child.

i. Whenever, pursuant to the provisions of an individual or group contract issued by an insurer, the former spouse of a named insured is no longer entitled to coverage as an individual dependent by reason of divorce, separate coverage for such former spouse shall be made available by the insurer on an individual non-group basis under the following conditions:

(1) Application for such non-group coverage shall be made to the insurer by or on behalf of such former spouse no later than 31 days following the date his or her coverage under the prior certificate or contract terminated.

(2) No new evidence of insurability shall be required in connection with the application for such non-group coverage but any health exception, limitation or exclusion applicable to said former spouse under the prior coverage may, at the option of the insurer, be carried over to the new non-group coverage.

(3) The effective date of the new coverage shall be the day following the date on which such former spouse's coverage under the prior certificate or contract terminated.

(4) The benefits provided under the non-group coverage issued to such former spouse shall be at least equal to the basic benefits provided in con-

tracts then being issued by the insurer to acceptable new non-group applicants of the same age and family status.

10. N.J.S.17B:27-30 is amended to read as follow:

Dependents.

17B:27-30. Benefits of group health insurance, except benefits for loss of time on account of disability, may be provided for one or more members of the families or one or more dependents of persons who may be insured under a group policy referred to in section 17B:27-27, 17B:27-28 or 17B:27-29. Any group health insurance policy which contains provisions for the payment by the insurer of benefits for expenses incurred on account of hospital, nursing, medical, or surgical services for members of the family or dependents of a person in the insured group must, subject to payment of the appropriate premium, permit such family members or dependents to have coverage continued for at least 180 days after the death of the person in the insured group, subject to the policy provision as to termination of coverage with respect to family members or dependents for reasons other than the death of the person in the insured group.

All group health insurance policies which provide coverage for a family member or dependent of an insured on an expense incurred basis shall also provide that the benefits applicable for children shall be payable with respect to a newly-born child of that insured from the moment of birth. The coverage for newly-born children shall consist of coverage of injury or sickness including the necessary care and treatment of medically diagnosed congenital defects and birth abnormalities. If payment of a specific premium is required to provide coverage for a child, the policy may require that notification of birth of a newly-born child and payment of the required premium must be furnished to the insurer within 31 days after the date of birth in order to have the coverage continue beyond such 31-day period.

All group health insurance policies which provide coverage on an expense incurred basis for the insured but do not provide coverage for a family member or dependent of the insured on an expense incurred basis, except such group policies as provide no dependent coverage whatsoever for the insured's class, shall nevertheless provide for coverage of newborn children of the insured which shall commence with the moment of birth of each child and shall consist of coverage of injury or sickness including the necessary care and treatment of medically diagnosed congenital defects and birth abnormalities, provided application and payment of the required premium are made to the insurer to include in said policy coverage for a

newly-born child as described in the previous paragraph of this section within 31 days from the date of birth of a newborn child.

A policy under which coverage of a dependent of an employee or other member of the insured group terminates at a specified age shall, with respect to an unmarried child covered by the policy prior to the attainment of age 19, who is incapable of self-sustaining employment by reason of intellectual disability or physical handicap and who became so incapable prior to attainment of age 19 and who is chiefly dependent upon such employee or member for support and maintenance, not so terminate while the insurance of the employee or member remains in force and the dependent remains in such condition, if the insured employee or member has within 31 days of such dependent's attainment of the termination age submitted proof of such dependent's incapacity as described herein. The foregoing provision of this paragraph shall not require an insurer to insure a dependent who is a child with an intellectual disability or physical handicap of an employee or other member of the insured group where such dependent does not satisfy the conditions of the group policy as to any requirements for evidence of insurability or other provisions as may be stated in the group policy required for coverage thereunder to take effect. In any such case the terms of the policy shall apply with regard to the coverage or exclusion from coverage of such dependent.

11. N.J.S.18A:39-1.2 is amended to read as follows:

Provision of transportation for certain pupils; contracts; charges, method of collection.

18A:39-1.2. Whenever the governing body of a municipality finds that for safety reasons it is desirable to provide transportation to and from a school for pupils living within the municipality, other than those living remote from the school or those physically handicapped or with an intellectual disability, the governing body and the board of education of the district are authorized to enter into a contract pursuant to the "Interlocal Services Act," P.L.1973, c.208 (C.40:8A-1 et seq.), under the terms of which the board shall provide such transportation. Any funds required to be paid by the municipality to the board of education under such a contract shall be appropriated by the governing body and paid to the secretary or treasurer of school moneys, as appropriate, of the district. The governing body of the municipality may charge the parents or guardians of children who are transported for safety reasons in order to help defray expenses, provided that no charge shall be imposed on the parent or guardian of any child who meets the Statewide eligibility standards established by the State Board of

Education for free and reduced price meals under the State school lunch program. The amount of any charges and the method of collection shall be specified in the contract between the municipal governing body and the board of education. Nothing in this section shall prevent a board of education from providing transportation at its own expense.

12. N.J.S.18A:43A-5 is amended to read as follows:

Services that may be provided or administered.

18A:43A-5. The bureau may, subject to the approval of the board of education, provide for or administer any or all of the following services:

(a) Take, keep and maintain a census of all children residing in the district pursuant to the provisions of section 18A:11-2;

(b) Supervise and maintain a school attendance service to carry out the provisions of article 3 of chapter 38 of this title, Compulsory Education;

(c) Maintain a register and classification of children with intellectual disabilities and children with handicaps pursuant to the provisions of chapter 46 of this title;

(d) Supervise the issuance of employment certificates, age certificates and special permits pursuant to the provisions of chapter 153 of the Laws of 1940, the law limiting and regulating child labor;

(e) Establish and maintain group and individual child guidance and counseling programs;

(f) Establish and operate speech and remedial reading clinics and such other clinics as will promote the normal educational development of the children of the district;

(g) Arrange with the respective county and municipal authorities concerned with proper juvenile development and particularly with those concerned with juvenile delinquency for mutual cooperation and assistance including service of the children's bureau as a receiving center for juvenile delinquents;

(h) Carry out, under guidance, the recommendations of mental health and diagnostic centers and clinics and of family psychiatrists and physicians;

(i) Counsel with parent and child;

(j) Cooperate in providing long- or short-term supervision of any child in connection with any of the services authorized by this section;

(k) Assist in the promotion of the normal development of youth and their proper adjustment in society.

13. N.J.S.18A:46-1 is amended to read as follows:

Definitions.

18A:46-1. As used in this chapter a handicapped child shall mean and include any child who has an intellectual disability or who is visually handicapped, auditorily handicapped, communication handicapped, neurologically or perceptually impaired, orthopedically handicapped, chronically ill, emotionally disturbed, socially maladjusted, multiply handicapped, autistic, or pre-school handicapped.

14. N.J.S.18A:46-2 is amended to read as follows:

Special educational services; appointment of professional personnel; advisory council; membership; no compensation.

18A:46-2. The commissioner shall be responsible for the coordination of the work of the county departments of child study and the general administration of special educational services in the public schools of this State.

In order to carry out the provisions of this chapter, he shall appoint to his staff persons qualified to administer educational services in the general field of education for handicapped children including each of the following disability groups: (1) intellectually disabled, (2) orthopedically handicapped, (3) communication handicapped, (4) visually handicapped, (5) neurologically or perceptually impaired, (6) chronically ill, (7) emotionally disturbed, (8) socially maladjusted, (9) auditorily handicapped, (10) autistic and (11) pre-school handicapped, and a consultant experienced in child psychiatry, and specialists in school psychology, health service, school social work, learning disabilities and special education and such other qualified personnel as he shall deem necessary and he shall fix their compensation with the approval of the State board.

The commissioner shall appoint biannually an advisory council with the approval of the State board which will consist of not less than seven nor more than 15 members representative of public and private professional and lay interests. The advisory council shall advise in the promulgation of rules, regulations and the implementation of this chapter and the establishment of standards and qualifications for the professional personnel. The council shall serve without remuneration.

15. N.J.S.18A:46-8 is amended to read as follows:

Classification of disabled, handicapped children; report to parent or guardian.

18A:46-8. Each board of education shall provide for the examination and classification of each child residing in the district and identified pursu-

ant to N.J.S.18A:46-6, except that the board of education of a county vocational school district shall provide for the examination and classification of each child who is attending the county vocational school on a full-time basis and is identified pursuant to N.J.S.18A:46-6. Such examination and classification shall be accomplished according to procedures prescribed by the commissioner and approved by the State board, under one of the following categories: intellectually disabled, visually handicapped, auditorily handicapped, communication handicapped, neurologically or perceptually impaired, orthopedically handicapped, chronically ill, emotionally disturbed, socially maladjusted, autistic, multiply handicapped or pre-school handicapped. The examination and classification of such nonpublic school children shall be in a location determined by the local board of education of the district in which the nonpublic school is located and approved by the commissioner pursuant to rules and regulations promulgated by the State board.

The classification of communication handicapped shall be made by the basic child study team and an approved speech correctionist or speech pathologist, without child study consultation. Such children shall be reported to the basic child study team.

The proposed classification shall be reported to the parent or guardian of the child and an opportunity provided, prior to implementation of the classification, for consultation by such parent or guardian with the appropriate special educational services personnel of the district. Pursuant to rules of the State board, the parent or guardian shall also be provided an opportunity for further review of the classification in the Department of Education.

16. N.J.S.18A:46-9 is amended to read as follows:

Classification of children having an intellectual disability.

18A:46-9. Each child classified pursuant to N.J.S.18A:46-8 as having an intellectual disability shall be similarly further identified, examined and classified into one of the following subcategories:

a. Educable children with intellectual disabilities who may be expected to succeed with a minimum of supervision in homes and schools and community life and are characterized particularly by reasonable expectation that at maturity they will be capable of vocational and social independence in competitive environments;

b. Trainable children with intellectual disabilities who are so intellectually disabled that they cannot be classified as educable but are, notwithstanding, potentially capable of self-help, of communicating satisfactorily, or participating in groups, of directing their behavior so as not to be dan-

gerous to themselves or others and of achieving with training some degree of personal independence and social and economic usefulness within sheltered environments;

c. Children eligible for day training, who are incapable of giving evidence of understanding and responding in a positive manner to simple directions expressed in the child's primary mode of communication and who cannot in some manner express basic wants and needs.

17. R.S.19:4-1 is amended to read as follows:

Constitutional qualifications; persons not having right of suffrage; right to register.

19:4-1. Except as provided in R.S.19:4-2 and R.S.19:4-3, every person possessing the qualifications required by Article II, paragraph 3, of the Constitution of the State of New Jersey and having none of the disqualifications hereinafter stated and being duly registered as required by Title 19, shall have the right of suffrage and shall be entitled to vote in the polling place assigned to the election district in which he actually resides, and not elsewhere.

No person shall have the right of suffrage--

(1) Who has been adjudicated by a court of competent jurisdiction to lack the capacity to understand the act of voting; or

(2) (Deleted by amendment.)

(3) (Deleted by amendment.)

(4) (Deleted by amendment.)

(5) (Deleted by amendment.)

(6) Who has been convicted of a violation of any of the provisions of this Title, for which criminal penalties were imposed, if such person was deprived of such right as part of the punishment therefor according to law unless pardoned or restored by law to the right of suffrage; or

(7) Who shall be convicted of the violation of any of the provisions of this Title, for which criminal penalties are imposed, if such person shall be deprived of such right as part of the punishment therefor according to law, unless pardoned or restored by law to the right of suffrage; or

(8) Who is serving a sentence or is on parole or probation as the result of a conviction of any indictable offense under the laws of this or another state or of the United States.

A person who will have on the day of the next general election the qualifications to entitle him to vote shall have the right to be registered for and vote at such general election and register for and vote at any election, intervening between such date of registration and such general election, if

he shall be a citizen of the United States and shall meet the age and residence requirements prescribed by the Constitution of this State and the laws of the United States, when such intervening election is held, as though such qualifications were met before registration.

18. Section 15 of P.L.1971, c. 136 (C.26:2H-15) is amended to read as follows:

C.26:2H-15 Representation as health care facility by unlicensed facility; inspection; penalties; cease and desist order.

15. Whenever a residential health care facility, boarding house or rooming house, not licensed hereunder, by public or private advertising or by other means holds out to the public that it is equipped to provide postoperative or convalescent care for persons with mental illness or intellectual disabilities or who are suffering or recovering from illness or injury, or who are chronically ill, or whenever there is reason to believe that any such facility or institution, not licensed hereunder, is violating any of the provisions of this act, then, and in such case, the department shall be permitted reasonable inspection of such premises for the purpose of ascertaining whether there is any violation of the provisions hereof. If any such residential health care facility, boarding house or rooming house, shall operate as a private mental hospital, convalescent home, private nursing home or private hospital in violation of the provisions of this act, then the same shall be liable to the penalties which are prescribed and capable of being assessed against health care facilities pursuant to this act.

Any person, firm, association, partnership or corporation, not licensed hereunder, but who holds out to the public by advertising or other means that the medical and nursing care contemplated by this act will be furnished to persons seeking admission as patients, shall cease and desist from such practice and shall be liable to a penalty of $100.00 for the first offense and $500.00 for each subsequent offense, such penalty to be recovered as provided for herein.

19. R.S.30:1-12 is amended to read as follows:

Findings; general policy; commissioner's power.

30:1-12. a. The Legislature finds that the Commissioner of Human Services is obligated by State and federal law to assure that programs that serve eligible, low-income, handicapped, elderly, abused, and disabled persons are provided in an accessible, efficient, cost-effective and high quality manner. In order to meet these ends, the commissioner must have sufficient

authority to require institutions and agencies that are under his direct or indirect supervision to meet State and federal mandates. This authority is especially necessary given the manner in which certain services are provided by county or local agencies, but are funded in whole or part by the State. The Legislature finds that the commissioner must have the authority to establish rules, regulations and directives, including incentives and sanctions, to assure that these institutions and agencies are providing services in a manner consistent with these mandates.

b. The commissioner shall have power to determine all matters relating to the unified and continuous development of the institutions and noninstitutional agencies within his jurisdiction. He shall determine all matters of policy and shall have power to regulate the administration of the institutions or noninstitutional agencies within his jurisdiction, correct and adjust the same so that each shall function as an integral part of a general system. The rules, regulations, orders and directions issued by the commissioner pursuant thereto, for this purpose shall be accepted and enforced by the executive having charge of any institution or group of institutions or noninstitutional agencies or any phase of the work within the jurisdiction of the department.

In order to implement the public policy of this State concerning the provision of charitable, hospital, relief and training institutions established for diagnosis, care, treatment, training, rehabilitation and welfare of persons in need thereof, for research and for training of personnel, and in order that the personnel, buildings, land, and other facilities provided be most effectively used to these ends and to advance the public interest, the commissioner is hereby empowered to classify and designate from time to time the specific functions to be performed at and by any of the aforesaid institutions under his jurisdiction and to designate, by general classification of disease or disability, age or sex, the classes of persons who may be admitted to, or served by, these institutions or agencies.

In addition to and in conjunction with its general facilities and services for persons with mental illness, developmental disabilities, or tuberculosis, the department may at its discretion establish and maintain specialized facilities and services for the residential care, treatment and rehabilitation of persons who are suffering from chronic mental or neurological disorders, including, but not limited to alcoholism, drug addiction, epilepsy and cerebral palsy.

The commissioner shall have the power to regulate the administration of agencies under his supervision including, but not limited to, municipal and county agencies that administer public assistance. The commissioner may issue rules, regulations, orders and directions to assure that programs

administered by the agencies are financially and programmatically efficient and effective, and to establish incentives and impose sanctions to assure the appropriate operation of programs and compliance with State and federal laws and regulations.

In addition, the commissioner shall have the authority to:

(1) review and approve county and municipal budgets for public assistance; and

(2) take appropriate interim action, including withholding State and federal administrative funds, or take over and operate county or municipal public assistance operations in situations in which the commissioner determines that the public assistance agency is failing to substantially follow federal or State law, thereby placing clients, who are dependent on public assistance benefits to survive in a humane and healthy manner, at serious risk. In this situation, the commissioner shall have the authority to bill the county for the cost of such operations and for necessary changes to assure that services are provided to accomplish federal and State mandates in an effective and efficient manner.

No rule, regulation, order or direction shall abridge the authority of a county or municipality to establish wages and terms and conditions of employment for its employees through collective negotiation with an authorized employee organization pursuant to P.L.1984, c.14 (C.44:7-6.1 et seq.).

The commissioner shall have the power to promulgate regulations to assure that services in State and county psychiatric facilities are provided in an efficient and accessible manner and are of the highest quality. Regulations shall include, but shall not be limited to, the transfer of patients between facilities; the maintenance of quality in order to obtain certification by the United States Department of Health and Human Services; the review of the facility's budget; and the establishment of sanctions to assure the appropriate operation of facilities in compliance with State and federal laws and regulations.

The commissioner shall have the power to promulgate regulations to assure that county adjusters effectively and efficiently conduct investigations, notify legally responsible persons of amounts to be assessed against them, petition the courts, represent patients in psychiatric facilities, and as necessary reopen the question of payment for maintenance of persons residing in psychiatric facilities. Regulations may include minimum standards for determining payment of care by legally responsible persons; a uniform reporting system of findings, conclusions and recommendations; and the establishment of sanctions to assure compliance with State laws and regulations.

c. The commissioner shall have the power to conduct an investigation into the financial ability to pay, directly or indirectly, of any person receiving services from the department, or his chargeable relatives. This authority shall include the power to issue subpoenas to compel testimony and the production of documents. The commissioner may contract with a public or private entity to perform the functions set forth in this subsection, subject to terms and conditions required by the commissioner.

20. R.S.30:1-15 is amended to read as follows:

Inspection of local and private institutions; reports.

30:1-15. The commissioner and the State board shall have the power of visitation and inspection of all county and city jails or places of detention, county or city workhouses, county penitentiaries, county mental hospitals, poor farms, almshouses, county and municipal schools of detention, and privately maintained institutions and noninstitutional agencies for the care and treatment of persons with mental illness or developmental disabilities and persons who are blind, visually impaired, deaf blind, or hard of hearing, or other institutions, and noninstitutional agencies conducted for the benefit of persons with a physical or mental deficiency, or the furnishing of board, lodging or care for children. The commissioner or his duly authorized agent, and any member of the State board shall be admitted to any and all parts of any such institutions at any time, for the purpose of inspecting and observing the physical condition thereof, the methods of management and operation thereof, the physical condition of the inmates, the care, treatment and discipline thereof, and also to determine whether such persons so admitted or committed are properly and adequately boarded, lodged, treated, cared for and maintained. The commissioner and the State board may make such report with reference to the result of such observation and inspection and recommendation with reference thereto, as they may determine.

21. Section 3 of P.L.1965, c.59 (C.30:1-15.1) is amended to read as follows:

C.30:1-15.1 Residential facilities for persons with mental illness, developmental disabilities; duty to inspect; report.

3. Inspection and approval of all residential facilities within the State providing diagnosis, care or treatment of persons with mental illness or developmental disabilities shall be a responsibility of the department. The

commissioner shall have the duty and is hereby authorized to set standards, and through his agents, including professionally qualified persons, to visit and inspect as often as is necessary, but at least once a year, all residential facilities which provide diagnosis, care or treatment of persons with mental illness or developmental disabilities, whether State, county, municipal, public or private, in order to determine the conditions under which such persons are lodged, cared for, maintained or treated, and in order to assure that adequate standards of care and treatment are maintained, that civil liberties of individuals receiving care are preserved and that the public may be informed of the adequacy of these facilities.

The State board and the commissioner, or their agents, shall have the right of admission to all parts of any building or buildings in which persons with mental illness or developmental disabilities are lodged, cared for or treated, as often as may be necessary. The extent and results of such visitation and inspection shall be included in the annual or any special report of the commissioner or the State board with such recommendations as they may deem necessary. Such report shall be available to the public.

22. Section 4 of P.L.1965, c.59 (C.30:1-15.2) is amended to read as follows:

C.30:1-15.2 Inspection of premises, books, records, accounts.

4. The premises, books, records and accounts of any facility or organization to which payments are made from the treasury of the State, directly or indirectly, for or on account of the diagnosis, care, treatment, rehabilitation, or maintenance of persons with mental illness or developmental disabilities shall be open to the inspection of the commissioner or his agents; such books, records and accounts shall be available for inspection and audit by the State Auditor or any of his agents insofar as they relate to the receipt and expenditure of State moneys, in order to determine whether the amount so paid by the State is a proper charge, which question the commissioner shall determine.

In order to encourage the continual improvement of standards of care, the commissioner shall make available, within the limits of appropriations therefor, professional consultative services to those facilities in the State which minister to persons with mental illness or developmental disabilities.

23. Section 1 of P.L.1987, c.5 (C.30:1AA-10) is amended to read as follows:

C.30:1AA-10 Findings, declarations.

1. The Legislature finds and declares that: approximately 2% of the residents of this State have developmental disabilities and more than 50,000 of these persons are developmentally disabled school age children; 30,000 to 40,000 residents have intellectual disabilities severe enough to require life-long supervision or care; several times more have less severe intellectual disabilities and can live independent or semi-independent lives; pregnancy during adolescence increases the incidence of developmental disabilities because of the heightened risk of premature birth, low birthweight, birth complications and birth defects; in 1984 in New Jersey, there were 6,682 births to women ages 18 years and under; about one out of 10 women in New Jersey becomes pregnant during her teenage years; and there is a 40% chance that a child of a teenager will be permanently impaired.

The Legislature further finds and declares that: the causes of many cases of developmental disabilities, such as inadequate prenatal care, maternal diseases, environmental contaminants, alcohol and drug ingestion, poor nutrition, lead poisoning, childhood diseases, child abuse and neglect, and accidents, are preventable; and it is in the best interests of the citizens of the State of New Jersey to establish a permanent office in the State Department of Human Services to combat the causes of developmental disabilities.

24. Section 2 of P.L.1987, c.5 (C.30:1AA-11) is amended to read as follows:

C.30:1AA-11 Office for Prevention of Developmental Disabilities.

2. There is established in the Department of Human Services the Office for Prevention of Developmental Disabilities, hereinafter referred to as the "office."

25. Section 3 of P.L.1987, c.5 (C.30:1AA-12) is amended to read as follows:

C.30:1AA-12 Director, appointment, powers.

3. The administrator and chief executive officer of the office shall be the director, who shall be a person qualified by training and experience to perform the duties of the office. Subsequent to consultation with the Governor's Council on the Prevention of Developmental Disabilities, the Commissioner of Human Services shall appoint the director, who shall serve at the pleasure of the commissioner during the commissioner's term of office and until the appointment and qualification of the director's successor. The director shall devote his entire time to the duties of his position

and shall receive a salary commensurate with the responsibilities of the office. The director shall serve in the State unclassified service of the Civil Service.

The director may appoint, retain or employ officers, experts or consultants on a contract basis or otherwise, which he deems necessary, and employ investigators or other professionally qualified personnel who shall be in the noncompetitive division of the career service of the Civil Service.

26. Section 5 of P.L.1987, c.5 (C.30:1AA-14) is amended to read as follows:

C.30:1AA-14 Office, responsibilities.

5. The responsibilities of the office shall include, but are not limited to:

a. Developing a long-range comprehensive plan for the prevention of developmental disabilities in accordance with the priorities established by the Governor's Council on the Prevention of Developmental Disabilities;

b. Encouraging cooperative programs of research among State governmental departments and agencies, universities and private agencies;

c. Developing public information campaigns about the causes of developmental disabilities and the means for preventing developmental disabilities;

d. Coordinating public education programs about the causes and prevention of developmental disabilities and determining professional in-service training needs in these areas;

e. Stimulating expanded and new services for the prevention of developmental disabilities; and

f. Making recommendations to the Commissioner of Human Services regarding any needed executive or legislative action.

27. Section 6 of P.L.1987, c.5 (C.30:1AA-15) is amended to read as follows:

C.30:1AA-15 Governor's council, executive committee.

6. a. The Governor's Council on the Prevention of Developmental Disabilities, originally created by Executive Order No. 72 (signed May 24, 1984), shall serve as an advisory council to the Commissioner of Human Services and to the Office for Prevention of Developmental Disabilities.

The State Departments of Human Services, Education, Health and Senior Services, Environmental Protection and Community Affairs are authorized and directed, to the extent consistent with the law, to cooperate with the

Governor's Council on the Prevention of Developmental Disabilities and to furnish it with resources necessary to carry out its purposes under this act.

The Governor shall appoint 25 public members to the Governor's Council on the Prevention of Developmental Disabilities to serve three-year terms, except that, of the members first appointed, nine shall be appointed to serve for three years, eight shall be appointed to serve for two years, and eight shall be appointed to serve for one year. At least one of the public members appointed to the Governor's council shall be an advocate for persons with developmental disabilities.

b. The Governor's Council on the Prevention of Developmental Disabilities shall establish from its members the Executive Committee of the Governor's Council on the Prevention of Developmental Disabilities. This committee shall have full power to act in lieu of the full council. The executive committee shall consist of 12 members, all of whom are members of the Governor's council. The Commissioners of the Departments of Health and Senior Services, Human Services, Education, Community Affairs and Environmental Protection shall serve as ex officio members. The Secretary of State and the Chairperson of the Governor's council shall serve as nonvoting, ex officio members of the executive committee. The Governor's council shall elect from its membership the remaining five members of the executive committee. These persons, as members of the Governor's council, shall be selected for their knowledge, competence, experience or interest in connection with the prevention of developmental disabilities. Members of the executive committee may, from time to time, designate other individuals as their representatives.

The executive committee shall serve without compensation, but shall be reimbursed for necessary expenses incurred in the performance of their duties. The Governor's council shall elect an executive committee chairperson from among the five voting cabinet members of the executive committee. The executive committee may select from among its members a vice-chairperson and other officers or subcommittees which are deemed necessary or appropriate.

28. Section 7 of P.L.1987, c.5 (C.30:1AA-16) is amended to read as follows:

C.30:1AA-16 Annual report to Governor, Legislature.

7. The Commissioner of Human Services and the executive committee of the Governor's Council on the Prevention of Developmental Disabilities established pursuant to section 6 of this act shall report annually to the

Governor and the Legislature concerning the status of prevention programs in the State.

29. R.S.30:4-6 is amended to read as follows:

Duties of chief executive officer.

30:4-6. The principal keeper of the State prison and the chief executive officer of each of the other correctional institutions shall receive from the hands of the sheriff or other proper officer every person sentenced to imprisonment in his institution and safely keep him therein according to law and the rules and regulations of the institution until lawfully discharged therefrom.

The chief executive officer of each institution for persons with developmental disabilities or mental illness, and of each correctional institution shall have the custody and control of every person admitted to his institution until properly discharged.

30. R.S.30:4-24 is amended to read as follows:

General principles, applicability.

30:4-24. The provisions of Title 30 of the Revised Statutes shall govern the admission and commitment of persons with mental illness, tuberculosis, and developmental disabilities to the several institutions designated therefor and govern and control all phases of the relationship between such patients and such institutions including payments, maintenance, custody, treatment, parole and discharge as though each provision of Title 30 of the Revised Statutes has been specifically enacted, unless otherwise specified in law, with relation to each institution, its board of managers and officials, and to all other officials, boards and authorities.

Title 30 of the Revised Statutes is to be administered in accordance with the general principles laid down in this section, which are declared to be the public policy of this State that:

(1) adequate residential and nonresidential facilities be provided for the prompt and effective diagnosis, care, treatment, training and rehabilitation of individuals suffering from diseases and dysfunctions of the brain, mind and nervous system, including the various forms of mental illness and developmental disability;

(2) such facilities be closely integrated with other community health, welfare and social resources;

(3) the human dignity and the moral and constitutional rights of such individuals be upheld and protected by appropriate statutes;

(4) family and community ties and mutual responsibilities be reinforced;

(5) inasmuch as such mental disorders may in some cases substantially impair the individual's ability to guide his actions in his own best interests or with due regard for the rights of others, provision be made for the due process of law by which such an individual may be placed under protection, treatment or restraint in his own or the public interest;

(6) the primary responsibility for the costs of services provided to an individual rests with him and his responsible relatives;

(7) it is in the public interest that facilities be available to all persons without limitation because of economic circumstances, and that extraordinary hardships to any individual or his relatives which may result from severe or prolonged disability be mitigated;

(8) means and facilities be provided by the State for scientific studies directed toward expanding knowledge of the causes, prevention, control, management and cure of diseases and dysfunctions of the brain, mind and nervous system; and

(9) as an intrinsic part of the program established by the State, provision be made for the instruction of professional and nonprofessional personnel in the skills required for the proper diagnosis, care, training, treatment and rehabilitation of persons suffering from disorders of the brain, mind and nervous system, and for the pursuit of relevant research.

31. Section 1 of P.L.1983, c.223 (C.30:4-24.4) is amended to read as follows:

C.30:4-24.4 Written reports accounting for expenditures.

1. The Commissioner of Human Services shall require employees in the Division of Developmental Disabilities to make written reports accounting for all expenditures which they may make of moneys of persons with developmental disabilities who receive functional services from the division pursuant to sections 16 and 18 of P.L.1965, c.59 (C. 30:4-25.4 and 30:4-25.6).

32. Section 13 of P.L.1965, c.59 (C.30:4-25.1) is amended to read as follows:

C.30:4-25.1 Definitions; classes for application for admission to functional services.

13. a. For the purpose of Title 30 of the Revised Statutes:

"Eligible person with a developmental disability" means a person who has been declared eligible for admission to functional services of the Divi-

sion of Developmental Disabilities and who complies with the provisions of section 5 of P.L.1995, c.155 (C.30:4-25.9).

"Evaluation services" means those services and procedures in the Division of Developmental Disabilities by which eligibility for functional services for persons with developmental disabilities is determined and those services provided by the Division of Developmental Disabilities for the purpose of advising the court concerning the need for guardianship of individuals over the age of 18 who appear to be mentally deficient.

"Functional services" means those services and programs in the Division of Developmental Disabilities available to provide persons with developmental disabilities with education, training, rehabilitation, adjustment, treatment, care and protection.

"Intellectual disability" means a significant subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior which are manifested during the development period. "Intellectual disability" and "intellectually disabled" shall have the same meaning as the terms "mental retardation" and "mentally retarded." For the purposes of Title 30 of the Revised Statutes, the term "developmentally disabled" may be used interchangeably with intellectual disability to refer to persons who receive services from the Division of Developmental Disabilities.

"Mental deficiency" or "mentally deficient" means that state of intellectual disability in which the reduction of social competence is so marked that persistent social dependency requiring guardianship of the person shall have been demonstrated or be anticipated.

"Residential services" or "residential functional services" means observation, examination, care, training, treatment, rehabilitation and related services, including community care, provided by the Division of Developmental Disabilities to patients who have been admitted or transferred to, but not discharged from any residential functional service for persons with developmental disabilities.

"Income" means, but is not limited to, wages, benefits, interest earned, pensions, annuity payments and support from a third party pursuant to statute, rule or order or by contract.

"Assets" or "resources" means, but is not limited to, cash, trusts, bank accounts, certificates of deposit, stocks, bonds and savings bonds.

b. Application for admission of an eligible person with a developmental disability to functional services of the Division of Developmental Disabilities may be made under any of the following classes:

Class F. Application to the commissioner by the parent, guardian or person or agency having care and custody of the person of a minor or by the guardian of the person of an adult with a mental deficiency;

Class G. Application to the commissioner by a person over 18 years of age who has a developmental disability on his own behalf;

Class H. Application to the commissioner by a Superior Court, Chancery Division, Family Part having jurisdiction over an eligible minor with a developmental disability;

Class I. Application to the commissioner with an order of commitment to the custody of the commissioner issued by a court of competent jurisdiction during or following criminal process involving the eligible person with a mental deficiency.

Application shall be made on such forms and accompanied by such relevant information as may be specified from time to time by the commissioner.

33. Section 14 of P.L.1965, c.59 (C.30:4-25.2) is amended to read as follows:

C.30:4-25.2 Application for determination of eligibility.

14. Application for determination of eligibility for functional services for a person under the age of 21 years who is believed to have a developmental disability may be made to the commissioner by:

1. his parent or guardian;

2. a child-caring agency, hospital, clinic, or other appropriate agency, public or private, or by a physician having care of the minor, provided the written consent of the parent or guardian or the Division of Youth and Family Services, under its care and custody program, has been obtained; or

3. a Superior Court, Chancery Division, Family Part having jurisdiction over the minor.

Application for determination of eligibility for any person over 18 years of age for functional services may be made by:

a. a person with a developmental disability over 18 years of age on his own behalf;

b. the guardian of the person of an adjudicated mentally incompetent adult; or

c. any court of competent jurisdiction in which the issue of mental deficiency may have arisen and which finds that it is in the interest of the person with an alleged mental deficiency to determine such eligibility.

34. Section 15 of P.L.1965, c.59 (C.30:4-25.3) is amended to read as follows:

C.30:4-25.3 Determination of eligibility.

15. Promptly on receipt of the application for determination of eligibility for admission to functional services of the Division of Developmental Disabilities, the commissioner shall determine the state of developmental disability and need for functional services. Such determination shall be made under rules promulgated by the commissioner. Any person with a developmental disability who makes such application or on whose behalf application is made and who is found to require functional services of the Division of Developmental Disabilities shall be declared eligible subject to the person's and his legally chargeable relatives' compliance with the provisions of section 5 of P.L.1995, c.155 (C.30:4-25.9).

35. Section 16 of P.L.1965, c.59 (C.30:4-25.4) is amended to read as follows:

C.30:4-25.4 Issuance of statement of eligibility.

16. The commissioner or his designated agent shall, immediately upon determination of the person's developmental disability, as provided herein, report his findings to the applicant, and in the event that the person who makes such application or on whose behalf the application has been made is found eligible, the commissioner or his designated agent shall issue to the applicant a statement of eligibility for the functional services of the Division of Developmental Disabilities. The statement of eligibility shall advise the applicant of the particular functional service deemed most appropriate for the training, habilitation, care and protection of the person as of the time of determination and shall further advise the applicant concerning the immediate availability of such services, or alternate services.

The statement of eligibility shall also advise the applicant of the requirements of section 5 of P.L.1995, c.155 (C.30:4-25.9), R.S.30:4-66 and R.S.30:4-74.

36. Section 17 of P.L.1965, c.59 (C.30:4-25.5) is amended to read as follows:

C.30:4-25.5 Court order for care and custody of eligible minors.

17. Whenever an eligible minor with a developmental disability is found to be neglected or delinquent under any of the statutes of this State pertaining to juvenile delinquency or to abandonment, abuse, cruelty, or neglect of children, the Superior Court, Chancery Division, Family Part having jurisdiction may accompany its application under Class H for admission of

the minor to functional services of the department with an order placing the aforesaid minor under the care and custody of the commissioner.

37. Section 18 of P.L.1965, c.59 (C.30:4-25.6) is amended to read as follows:

C.30:4-25.6 Admission to functional services; alternative services.

18. The commissioner shall, upon proper application for admission, forthwith admit the eligible person with a developmental disability, and provide him with appropriate functional service to the extent available. In the event that the functional service which has been specified as most appropriate from time to time is not immediately available, the commissioner shall provide alternate service and, at the request of the applicant, shall also place the eligible person on a waiting list for the preferred service pending its availability.

38. Section 19 of P.L.1965, c.59 (C.30:4-25.7) is amended to read as follows:

C.30:4-25.7 Provision for health, safety, welfare, etc., of persons admitted.

19. The commissioner shall make all reasonable and necessary provisions to ensure the health, safety, welfare and earliest appropriate release of persons admitted to residential services for persons with developmental disabilities. He shall provide further for educational, medical, dietetic, and social needs of any such person in accordance with such person's individual requirements, as determined by competent professional personnel.

39. Section 20 of P.L.1965, c.59 (C.30:4-25.8) is amended to read as follows:

C.30:4-25.8 Maintenance of contact and consultation with parents or guardians of persons admitted.

20. The commissioner or his designated agent shall make diligent efforts to maintain contact with the parent or guardian of each person with a developmental disability who is receiving functional services and, in the case of those receiving residential services, to advise the parent or guardian promptly of any significant changes in the condition of the person. He shall make all reasonable efforts to consult with the parent or guardian concerning recommended changes in the program, care, training, rehabilitation or treatment being rendered to any person with a developmental disability by the department, and to secure the prior consent of the parent or guardian to such changes; provided, however, that, in the absence of an expressed

prohibition of such action by the parent or guardian, the commissioner or his designated agent shall be free from liability for the consequences of any prudent action taken by them in the interest of the immediate health or safety of the person when an emergency affecting such person may arise.

40. Section 5 of P.L.1995, c.155 (C.30:4-25.9) is amended to read as follows:

C.30:4-25.9 Conditions of eligibility for functional services participation.

5. a. An applicant for functional services from the Division of Developmental Disabilities, any person acting on his behalf pursuant to section 14 of P.L.1965, c.59 (C.30:4-25.2), or the applicant's chargeable relatives, as appropriate, shall agree, if the applicant is determined eligible for functional services pursuant to section 15 of P.L.1965, c.59 (C.30:4-25.3), to comply with the following conditions of eligibility and continued functional services participation:

(1) The applicant for residential services or other person listed in this subsection shall assign to the Commissioner of Human Services any rights of the applicant to support or payment from a third party under any law, regulation, court order or administrative order unless specifically prohibited by federal law or regulation;

(2) The applicant or other person listed in this subsection shall apply for and maintain all current and future benefits for which the applicant may be eligible, including, but not limited to, Medicare, Medicaid, any other State or federal benefits and any third party support pursuant to statute, rule, court order or contract; and

(3) The applicant or other person listed in this subsection shall make payments as required pursuant to R.S.30:4-60.

b. The Division of Developmental Disabilities may terminate any services received by, or the placement of, the eligible person with a developmental disability within 60 days if the conditions of eligibility set forth in this section are not complied with by the eligible person with a developmental disability or other person listed in subsection a. of this section. During any appeals process period, services to a person with a developmental disability shall not be terminated.

c. Nothing in this section or Title 30 of the Revised Statutes shall be construed to deny functional services to any person who meets the eligibility conditions and criteria for functional services, but does not have the ability to pay the full per capita costs or payments required pursuant to R.S.30:4-60.

41. Section 69 of P.L.1965, c.59 (C.30:4-83.1) is amended to read as follows:

C.30:4-83.1 Notice of transfer.

69. Whenever a person with mental illness or a developmental disability is transferred from one residential service to another by order of the commissioner, notice shall be given by the commissioner in advance, where possible, but in any case in writing, to his spouse, if any, or to his guardian, or to his parents if he is a minor, or to his nearest known relative or friend.

42. R.S.30:4-101 is amended to read as follows:

Married couples not to be separated, exceptions.

30:4-101. In a public institution maintained in whole or in part by the State, or a county, municipality or subdivision thereof, married couples, inmates of the same institution, shall not be separated or maintained in separate quarters. This provision shall not apply to institutions for persons with mental illness or developmental disabilities, or to correctional institutions or to cases where the health or mental condition of the persons concerned warrants separation.

43. Section 75 of P.L.1965, c.59 (C.30:4-107.1) is amended to read as follows:

C.30:4-107.1 Release of person; provision of functional services.

75. Whenever a minor with a developmental disability or adult with a mental deficiency is receiving functional services without court order, and is resident at a State school, or private residential institution, or a resource family home, or similar accommodation by arrangement of the commissioner, the commissioner shall cause such person to be released to the immediate custody of his parent or guardian of the person, as the case may be, on written application of said parent or guardian. Release shall be effected as promptly as possible, provided, however, that 48 hours' notice may be required. The department shall thereafter continue to provide such functional services as may be appropriate, unless functional services are terminated as hereinafter provided in this act.

44. Section 77 of P.L.1965, c.59 (C.30:4-107.3) is amended to read as follows:

C.30:4-107.3 Discharge of persons receiving functional services without court order.

77. Discharge of individuals admitted to and continuing to receive functional services without an order of the court shall be effected under the following circumstances:

(1) upon written application by the parent or guardian of the person of a minor or by the guardian of the person of an adult;

(2) upon written application by the person with a developmental disability on his own behalf, after receiving services on his own application or request;

(3) upon determination by the commissioner or his designated agent that functional services of the department are no longer required;

(4) upon attainment of the age of 21 years in the absence of a valid request for continuation of functional services; or

(5) upon determination by the commissioner that no condition of developmental disability exists.

Discharge of individuals under the circumstances described in class (1) and (2) of this section shall be effected as promptly as practicable, under rules promulgated by the Department of Health and Senior Services.

45. Section 84 of P.L.1965, c.59 (C.30:4-165.1) is amended to read as follows:

C.30:4-165.1 Provision of comprehensive evaluation, functional and guardianship services.

84. The department shall provide comprehensive evaluation, functional and guardianship services, as hereafter designated, in order that eligible persons with developmental disabilities may be provided with adequate training, care and protection.

Evaluation services shall include:

(1) primary evaluation services consisting of inpatient and outpatient facilities for the direct evaluation of medical, psychological, social, educational and related factors affecting the functioning of the individual and pertinent to his need for specialized care, training or treatment as a person with a developmental disability; and

(2) secondary evaluation services consisting of facilities for the appraisal of such data available from other sources.

46. Section 85 of P.L.1965, c.59 (C.30:4-165.2) is amended to read as follows:

C.30:4-165.2 Residential and nonresidential functional services.

85. Functional services for persons with developmental disabilities shall include both residential and nonresidential services as follows:

(1) Nonresidential functional services shall include but need not be limited to: evaluation, counseling of family or guardian, of employer, or of a person with a developmental disability; consultative services to social, educational, or welfare and health agencies and to the courts; day-care programs; and day training programs.

(2) Residential functional services shall include but need not be limited to: evaluation study, treatment, education, training, rehabilitation, care and protection provided in State schools and in other residential facilities operated by the department; family care and sheltered life programs; interim placement in approved residential facilities other than State schools. Such programs may be of short- or long-term duration as required.

47. Section 87 of P.L.1965, c.59 (C.30:4-165.4) is amended to read as follows:

C.30:4-165.4 "Guardianship services" defined.

87. "Guardianship services" shall mean those services and programs provided by the Division of Developmental Disabilities for the purpose of implementing its responsibility toward the individuals for whom it is performing the services of guardian of the person.

48. Section 88 of P.L.1965, c.59 (C.30:4-165.5) is amended to read as follows:

C.30:4-165.5 Application for appointment of guardian.

88. Whenever a minor has been admitted to functional or other services provided by the Division of Developmental Disabilities on application as provided herein and has not been discharged therefrom, the commissioner shall, not less than six months nor more than 18 months prior to the 18th birthday of said person, cause him to be examined to ascertain whether it appears that such person will need a guardian on attainment of his majority.

If the commissioner anticipates that such person will need a guardian, the commissioner or his designated agent shall apply to the Superior Court in the same manner as provided in section 1 of P.L.1970, c.289 (C.30:4-165.7) for appointment of a guardian unless another application is pending.

In the event that no guardian has been appointed for a person who commences receiving functional or other services after the effective date of

this amendatory and supplementary act and who has attained age 18, and if the commissioner has ascertained that such person appears to need a guardian, then the commissioner shall apply to the Superior Court in the same manner as provided in section 1 of P.L.1970, c.289 (C.30:4-165.7) for appointment of a guardian unless another application is pending.

The commissioner shall also promptly advise in plain language any parent, spouse, relative, or other interested person of his findings and of the parent's or person's right to participate in the process of an adjudication and to be considered for appointment as a guardian. The commissioner may offer to these persons assistance to facilitate their appointments as guardians unless he has reason to question their fitness to serve.

49. Section 89 of P.L.1965, c.59 (C.30:4-165.6) is amended to read as follows:

C.30:4-165.6 Person with developmental disability to continue receipt of residential functional services; exceptions.

89. Any person with a developmental disability under the age of 18 years who, on the effective date of this act, is receiving residential functional services under order of commitment of any court shall continue to receive residential care as if admitted under Class F of this act, unless within 30 days of the effective date of this act the commissioner shall apply to the Superior Court, Chancery Division, Family Part for an order of commitment to care and custody as provided herein. Persons over the age of 18 for whom a guardian of the person has been appointed and who are receiving residential functional services shall be considered to have been admitted under Class F of this act. Where no guardian has been appointed for a person who is over the age of 18 who is receiving residential functional services on the effective date of this act, the last prior order issued with respect to him shall continue in force and effect for one year following the effective date of this act, unless prior to that time either (1) the person with a developmental disability has been discharged or (2) a guardian of his person has been appointed, or (3) application has been made by a court of competent jurisdiction for his admission to care under Class I as provided herein.

Any order for payment of maintenance issued under prior provisions of Title 30 in effect on the effective date of this act shall remain in force and effect.

50. Section 2 of P.L.1970, c.289 (C.30:4-165.8) is amended to read as follows:

C.30:4-165.8 Necessary affidavits; "significant chronic functional impairment" defined.

2. The moving papers shall include a verified complaint, an affidavit from a practicing physician or a psychologist licensed pursuant to P.L.1966, c.282 (C.45:14B-1 et seq.), and an affidavit from the chief executive officer, medical director or other officer having administrative control over the program from which the individual is receiving functional or other services provided by the Division of Developmental Disabilities. The affidavits shall set forth with particularity the facts supporting the affiant's belief that the alleged incapacitated person suffers from a significant chronic functional impairment to such a degree that the person either lacks the cognitive capacity to make decisions for himself or to communicate, in any way, decisions to others. For the purposes of this section, "significant chronic functional impairment" includes, but is not limited to, a lack of comprehension of concepts related to personal care, health care or medical treatment.

51. R.S.30:6-16 is amended to read as follows:

Instruction of certain persons; children; rates.

30:6-16. An annual sum, the per capita amount of which for each pupil shall be fixed by the State House Commission, when appropriated by the Legislature, may be applied by the commission mentioned in R.S.30:6-1 for the instruction or placing for instruction in a suitable and convenient institution or elsewhere, persons who are deaf, hard of hearing, deaf blind, blind, visually impaired, or with a developmental disability or mental deficiency and who are residents of the State as the board may select.

Whenever deemed necessary by the commission, blind babies and young children with physical or intellectual disabilities whose needs cannot be met in other institutions for the blind shall be sent to some convenient and suitable institution in the State where special hospital care, instruction and support can be provided but the rate to be paid by the State including clothing and necessary transportation shall not exceed the rate fixed by the State House Commission.

The rate to be paid for any blind child placed in an institution outside the State, including clothing shall not exceed the per capita rate fixed by the State House Commission.

52. Section 3 of P.L.1977, c.82 (C.30:6D-3) is amended to read as follows:

C.30:6D-3 Additional definitions.

3. As used in this act, unless a different meaning clearly appears from the context:

a. "Developmental disability" means a

severe, chronic disability of a person which:

(1) is attributable to a mental or physical impairment or combination of mental or physical impairments;

(2) is manifest before age 22;

(3) is likely to continue indefinitely;

(4) results in substantial functional limitations in three or more of the following areas of major life activity, that is, self-care, receptive and expressive language, learning, mobility, self-direction and capacity for independent living or economic self-sufficiency; and

(5) reflects the need for a combination and sequence of special interdisciplinary or generic care, treatment or other services which are of lifelong or extended duration and are individually planned and coordinated. Developmental disability includes, but is not limited to severe disabilities attributable to, an intellectual disability, autism, cerebral palsy, epilepsy, spina bifida and other neurological impairments where the above criteria are met;

b. "Services" or "services for persons with developmental disabilities" means specialized services or special adaptations of generic services provided by any public or private agency, organization or institution and directed toward the alleviation of a developmental disability or toward the social, personal, physical, or economic habilitation or rehabilitation of an individual with such a disability; and such term includes diagnosis, evaluation, treatment, personal care, day care, domiciliary care, special living arrangements, training, education, sheltered employment, recreation, counseling of the individual with such disability and of his family, protective and other social and socio-legal services, information and referral services, follow-along services, and transportation services necessary to assure delivery of services to persons with developmental disabilities; and

c. "Facility" or "facility for persons with developmental disabilities" means a facility operated by any public or private agency, organization or institution for the provision of services for persons with developmental disabilities.

53. Section 3 of P.L.1985, c.145 (C.30:6D-25) is amended to read as follows:

C.30:6D-25 "Developmental Disabilities Act" definitions.

3. For the purposes of this act:

a. "Commissioner" means the Commissioner of Human Services.

b. "Developmental disability" means a severe, chronic disability of a person which: (1) is attributable to a mental or physical impairment or combination of mental or physical impairments; (2) is manifest before age 22; (3) is likely to continue indefinitely; (4) results in substantial functional limitations in three or more of the following areas of major life activity, that is, self-care, receptive and expressive language, learning, mobility, self-direction and capacity for independent living or economic self-sufficiency; and (5) reflects the need for a combination and sequence of special interdisciplinary or generic care, treatment or other services which are of lifelong or extended duration and are individually planned and coordinated. Developmental disability includes, but is not limited to, severe disabilities attributable to an intellectual disability, autism, cerebral palsy, epilepsy, spina bifida and other neurological impairments where the above criteria are met.

c. "Director" means the Director of the Division of Developmental Disabilities.

d. "Division" means the Division of Developmental Disabilities.

e. "Eligible person with a developmental disability" means a person who is developmentally disabled pursuant to subsection b. of this section and who has been declared eligible for services provided by the division.

f. "Services for persons with developmental disabilities" means specialized services or specialized adaptations of generic services provided by a public or private agency, organization or institution and directed toward the alleviation of a developmental disability or toward the social, personal, physical or economic habilitation or rehabilitation of a person with a developmental disability and includes care management, diagnosis, evaluation, treatment, personal care, day care, domiciliary care, special living arrangements, training, education, vocational training, recreation, counseling of the person with the disability and his family, information and referral services and transportation services.

54. Section 5 of P.L.1985, c.145 (C.30:6D-27) is amended to read as follows:

C.30:6D-27 Duties of director.

5. In addition to other functions, powers and duties vested in him by this act or any other law, the director shall:

a. Provide services for eligible persons with developmental disabilities by identifying appropriate programs to meet their needs and by facilitating the establishment of community-based services for these persons; except that if the most appropriate services are not immediately available, the director may provide an eligible person with a developmental disability with alternate services;

b. Establish procedures for the determination of eligibility for services pursuant to this act and ensure that statements of eligibility advise the applicant about the particular functional services deemed most appropriate for the training, habilitation, care and protection of that person with a developmental disability as of the time of the determination;

c. Establish liaison and cooperative agreements with other governmental departments and agencies which provide programs and services to persons with developmental disabilities to prevent duplication of services and encourage a continuum of care that is required by persons with developmental disabilities;

d. Establish standards for services that are provided for persons with developmental disabilities, which include the scope and quality of these services and which give full recognition to the unique problems and special needs associated with developmental disabilities;

e. Advise, consult and provide professional assistance to organized efforts by organizations, groups, associations and committees which work toward improving services and opportunities for persons with developmental disabilities; and

f. Select and retain the services of consultants whose advice is considered necessary to assist the division in obtaining information or developing plans and programs required for the performance of its duties and responsibilities pursuant to this act.

55. Section 8 of P.L.1985, c.145 (C.30:6D-30) is amended to read as follows:

C.30:6D-30 Eligibility continued.

8. Notwithstanding any provisions of this act to the contrary, the eligibility of persons with intellectual disabilities for services of the division shall continue as provided in chapter 4 of Title 30 of the Revised Statutes.

56. Section 2 of P.L.1998, c.40 (C.30:6D-44) is amended to read as follows:

C.30:6D-44 Findings, declarations relative to assessment on intermediate care facilities.

2. The Legislature finds and declares that:

a. It is in the public interest to generate revenue to be used by the Division of Developmental Disabilities in the Department of Human Services to reduce the number of disabled persons awaiting placement in a community residence or program; and

b. By establishing an appropriate assessment on intermediate care facilities for persons with developmental disabilities, to the extent possible under federal law, additional funding will be available for more placements of disabled persons in community residences or programs.

57. Section 3 of P.L.1998, c.40 (C.30:6D-45) is amended to read as follows:

C.30:6D-45 Definitions relative to assessment on immediate care facilities.

3. As used in this act:

"Commissioner" means the Commissioner of Human Services.

"Gross revenue" means all revenue received by an ICF-DD from patients or third parties, including, but not limited to, persons, Medicaid and other payers related to patient services.

"Intermediate care facility for persons with developmental disabilities" or "ICF-DD" means any institution licensed by the Department of Health and Senior Services as an ICF-DD or operated by the Department of Human Services as a certified ICF-DD.

"Medicaid" means the Medicaid program established pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.).

58. Section 6 of P.L.1956, c.161 (C.30:11-10) is amended to read as follows:

C.30:11-10 Provisions applicable to private mental hospitals.

6. The provisions of article 3 of chapter 4 of Title 30 of the Revised Statutes, except as concerning or pertaining to the investigation and determination of legal settlement and indigence of patients, shall apply to duly licensed private mental hospitals for the care and treatment of persons with a mental illness, a mental deficiency, and an intellectual disability and every license issued hereunder shall be the licensee's authority to receive and hold a person duly admitted or committed pursuant to law.

59. Section 10 of P.L.1953, c.212 (C.30:11A-10) is amended to read as follows:

C.30:11A-10 Penalties for operating uncertified residential health care facility.

10. (a) Any person, firm, corporation, partnership, society or association who shall operate or conduct a residential health care facility without first obtaining the certificate of approval required by this act, or who shall operate such establishment after revocation or suspension of a certificate of approval, shall be liable to a penalty of $10.00 for each day of operation in violation hereof for the first offense and for any subsequent offense shall be liable to a penalty of $20.00 for each day of operation in violation hereof.

The penalties authorized by this section shall be recovered in a summary proceeding, brought in the name of the State of New Jersey pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.74 (C.2A:58-10 et seq.). Money penalties, when recovered, shall be payable to the General State Fund.

The department may, in the manner provided by law, maintain an action in the name of the State of New Jersey for injunctive relief against any person, firm, corporation, partnership, society or association, continuing to conduct, manage or operate a residential health care facility without a certificate of approval, or after suspension or revocation of such certificate.

The practice and procedure in actions instituted under authority of this section shall conform to the practice and procedure in the court in which the action is instituted.

No officer or agent of any municipal or county agency having responsibility for making payments of any form of public assistance under the provisions of Title 44 of the Revised Statutes, shall make such payments to or on behalf of a person residing in a residential health care facility as defined in this act, unless such establishment is, at the time of such payment, approved or provisionally approved pursuant to this act.

(b) No residential health care facility, licensed hereunder, shall by public or private advertisement or by any other means hold out to the public that it is equipped to provide post-operative or convalescent care for persons with a mental illness or an intellectual disability or who are suffering or recovering from illness or injury or who are critically ill. Any person, firm, association, partnership, society or corporation who violates the provisions of this subsection shall cease and desist from such practices and shall be liable to a penalty of $100.00 for the first and $200.00 for each subsequent offense, such penalties shall be recovered in the manner provided for in subsection (a) of this section.

(c) No residential health care facility licensed hereunder, shall operate as a private mental hospital, convalescent home, private nursing home, or private hospital, unless it is licensed pursuant to chapter 11 of Title 30 of

the Revised Statutes. Whenever there is reason to believe that any such facility or institution is in violation of the provisions of this subsection, the department may conduct a reasonable inspection of the premises for the purpose of ascertaining whether there is any violation. Any facility or institution which violates the provisions of this subsection shall be liable to a penalty of $25.00 for each day of operation in violation of this subsection for the first offense and to a penalty of $50.00 for each day of operation for any subsequent offense. The Department of Health and Senior Services, with the approval of the Attorney General, is hereby authorized and empowered to compromise and settle claims for the monetary penalty in appropriate circumstances where it appears to the satisfaction of the department that payment of the full penalty will work severe hardship on any individual not having sufficient financial ability to pay the full penalty but in no case shall the penalty be compromised for a sum less than $250.00 for the first offense and $500.00 for any subsequent offense; provided, however, that any penalty of less than $250.00 or $500.00, as the case may be, may be compromised for a lesser sum. The penalties authorized by this subsection shall be recovered in the manner provided for in subsection (a) of this section.

(d) No owner, operator or employee of a residential health care facility shall serve notice upon a resident to leave the premises, or take any other action in retaliation for: (a) The efforts of the resident or a person acting on his behalf to secure or enforce any rights under a contract, the laws of this State or any of its subdivisions, or the laws of the United States; or (b) The good faith complaint of a resident or a person acting on his behalf to a governmental authority concerning the owner, operator or employee's alleged violation of this act or any health or safety law, regulation, code or ordinance, or other law or regulation which has as its objective the regulation of residential health care facilities.

60. Section 2 of P.L.1977, c.448 (C.30:11B-2) is amended to read as follows:

C.30:11B-2 Definitions.

2. "Community residence for the developmentally disabled" means any community residential facility housing up to 16 persons with developmental disabilities, which provides food, shelter and personal guidance for persons with developmental disabilities who require assistance, temporarily or permanently, in order to live independently in the community. Such residences shall not be considered health care facilities within the meaning

of the "Health Care Facilities Planning Act," P.L.1971, c.136 (C.26:2H-1 et seq.) and shall include, but not be limited to, group homes, halfway houses, supervised apartment living arrangements and hostels.

"Community residence for the mentally ill" means any community residential facility which provides food, shelter and personal guidance, under such supervision as required, to not more than 15 persons with mental illness who require assistance temporarily or permanently, in order to live independently in the community. These residences shall be approved for a purchase of service contract or an affiliation agreement pursuant to procedures established by the Division of Mental Health Services in the Department of Human Services or the Division of Child Behavioral Health Services in the Department of Children and Families, as applicable. These residences shall not house persons who have been assigned to a State psychiatric hospital after having been found not guilty of a criminal offense by reason of insanity or unfit to be tried on a criminal charge. These residences shall not be considered health care facilities within the meaning of the "Health Care Facilities Planning Act," P.L.1971, c.136 (C.26:2H-1 et seq.) and shall include, but not be limited to, group homes, halfway houses, supervised apartment living arrangements, family care homes and hostels.

"Community residence for persons with head injuries" means a community residential facility providing food, shelter and personal guidance, under such supervision as required, to not more than 15 persons with head injuries, who require assistance, temporarily or permanently, in order to live in the community, and shall include, but not be limited to: group homes, halfway houses, supervised apartment living arrangements, and hostels. Such a residence shall not be considered a health care facility within the meaning of the "Health Care Facilities Planning Act," P.L.1971, c.136 (C.26:2H-1 et seq.).

"Developmental disability" or "developmentally disabled" means a severe, chronic disability of a person which: a. is attributable to a mental or physical impairment or combination of mental or physical impairments; b. is manifest before age 22; c. is likely to continue indefinitely; d. results in substantial functional limitations in three or more of the following areas of major life activity, that is, self-care, receptive and expressive language, learning, mobility, self-direction and capacity for independent living or economic self-sufficiency; and e. reflects the need for a combination and sequence of special interdisciplinary or generic care, treatment or other services which are of lifelong or extended duration and are individually planned and coordinated. Developmental disability includes, but is not limited to, severe disabilities attributable to an intellectual disability, autism,

cerebral palsy, epilepsy, spina bifida and other neurological impairments where the above criteria are met.

"Mentally ill" or "mental illness" means any psychiatric disorder which has required an individual to receive either inpatient psychiatric care or outpatient psychiatric care on an extended basis.

"Person with head injury" means a person who has sustained an injury, illness or traumatic changes to the skull, the brain contents or its coverings which results in a temporary or permanent physiobiological decrease of cognitive, behavioral, social or physical functioning which causes partial or total disability.

61. Section 1 of P.L.1993, c.43 (C.33:1-12a) is amended to read as follows:

C.33:1-12a Posting of notice required.

1. A person who holds a Class C license, except a plenary retail transit license, or a club license shall ensure that a warning notice prepared by the Department of Health and Senior Services is posted prominently in any service area as well as on a wall, towel dispenser or other appropriate location in any public rest room for women patrons on the licensed premises. The notice shall warn patrons that alcohol consumption during pregnancy has been determined to be harmful to the fetus and can cause birth defects, low birth weight and Fetal Alcohol Syndrome, which is one of the leading causes of intellectual disabilities.

62. Section 2 of P.L.1991, c.323 (C.39:4-14.7a) is amended to read as follows:

C.39:4-14.7a Rules, regulations; warning cards.

2. The Director of the Division of Consumer Affairs in the Department of Law and Public Safety shall, pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), promulgate rules and regulations to effectuate the purposes of this act. In addition to such other matters as the director shall deem appropriate and necessary, those rules and regulations so promulgated shall provide that the affixing of the warning cards "This Bike Is Missing One Part," designed by the New Jersey Coalition for Prevention of Developmental Disabilities and funded by the Office for the Prevention of Developmental Disabilities in the Department of Human Services, to a bicycle offered for sale at retail shall fulfill the requirements of section 1 of this act and that those warning cards shall be readily available to the retail sellers of bicycles at cost.

63. Section 1 of P.L.1984, c.50 (C.39:4-207.2) is amended to read as follows:

C.39:4-207.2 Person with an intellectual disability defined.

1. For purposes of this act "person with an intellectual disability" means a person in a state of significant subnormal intellectual development with reduction of social competence which state shall have existed prior to adolescence and is expected to be of lifelong duration.

64. Section 2 of P.L.1984, c.50 (C.39:4-207.3) is amended to read as follows:

C.39:4-207.3 Issuance of insignia for motor vehicle used for transporting persons with intellectual disabilities.

2. a. The Chief Administrator of the New Jersey Motor Vehicle Commission shall issue a special insignia upon the application of a federal, State, county or municipal entity or a public or private nonprofit organization incorporated under the laws of this State for motor vehicles owned or operated by the applicant and used to transport persons with intellectual disabilities. The insignia shall be of a design and shall be posted or attached to the motor vehicle in a place and manner to be determined by the chief administrator. The fee for the issuance of an insignia shall be determined by the chief administrator and the insignia shall be renewable annually by the chief administrator at the time fixed for the annual registration of the vehicle.

b. The chief administrator may also issue to an applicant, at the expense of the State, special vehicle identification cards to be carried by the operators of motor vehicles used to transport persons with intellectual disabilities. The cards shall be renewable annually by the chief administrator at the time fixed for the annual registration of the vehicles.

c. The chief administrator may also issue to an applicant a placard to be displayed on the motor vehicle.

65. Section 3 of P.L.1984, c.50 (C.39:4-207.4) is amended to read as follows:

C.39:4-207.4 Authorization to park in space marked for physically handicapped.

3. A motor vehicle owned or operated by a federal, State, county or municipal entity or a public or private nonprofit organization incorporated under the laws of this State and used to transport persons with intellectual

disabilities, and which is properly identified in accordance with the provisions of section 1 of this act, is authorized to park in a space appropriately marked for vehicles for the physically handicapped pursuant to law whenever the vehicle is being used to transport persons with intellectual disabilities.

66. Section 1 of P.L.1964, c.10 (C.40:23-8.11) is amended to read as follows:

C.40:23-8.11 Appropriations for services for certain persons.

1. The board of chosen freeholders of any county may appropriate annually to any approved, privately operated, nonprofit organization whose services are nonsectarian, funds for the purpose of defraying the necessary expense incident to the diagnosis, treatment and training of persons with intellectual disabilities, persons with a brain injury, or persons with mental illness who are residents of the county, at suitable homes, schools, hospitals, day-care centers, residential treatment centers or sheltered workshops anywhere in the State supported by public funds or private charity, including the cost of transporting such persons to and from, and their support and maintenance at, such homes, schools, hospitals, day-care centers, residential treatment centers or sheltered workshops for the purpose of, or while undergoing diagnosis, treatment and training.

67. Section 1 of P.L.1975, c.141 (C.40:48-9.4a) is amended to read as follows:

C.40:48-9.4a Annual appropriation to nonprofit organizations for treatment and rehabilitation of certain persons.

1. The governing body of any municipality may appropriate annually to any approved, privately operated, nonprofit organization whose services are nonsectarian, funds for the purpose of defraying the necessary expense incident to the diagnosis, treatment, training and rehabilitation of persons with intellectual disabilities, persons with a brain injury, persons with mental illness, or persons who are otherwise mentally or physically handicapped who are residents of the municipality, at suitable homes, schools, hospitals, day-care centers, residential treatment centers, rehabilitation centers or sheltered workshops anywhere in the State supported by public funds or private charity, including the cost of transporting such persons to and from, and their support and maintenance at, such homes, schools, hospitals, day-care centers, residential treatment centers, rehabilitation centers or sheltered workshops for the purpose of diagnosis or while undergoing

treatment, training and rehabilitation, or for the purpose of maintaining an extended employment program.

68. Section 15 of P.L.1971, c.199 (C.40A:12-15) is amended to read as follows:

C.40A:12-15 Purposes for which leases for a public purpose may be made.

15. Purposes for which leases for a public purpose may be made.

A leasehold for a term not in excess of 50 years may be made pursuant to this act and extended for an additional 25 years by ordinance or resolution thereafter for any county or municipal public purpose, including, but not limited to:

(a) The provision of fire protection, first aid, rescue and emergency services by an association duly incorporated for such purposes.

(b) The provision of health care or services by a nonprofit clinic, hospital, residential home, outpatient center or other similar corporation or association.

(c) The housing, recreation, education or health care of veterans of any war of the United States by any nonprofit corporation or association.

(d) Mental health or psychiatric services or education for persons with mental illness, persons with a mental deficiency, or persons with intellectual disabilities by any nonprofit corporation or association.

(e) Any shelter care or services for persons aged 62 or over receiving Social Security payments, pensions, or disability benefits which constitute a substantial portion of the gross income by any nonprofit corporation or association.

(f) Services or care for the education or treatment of cerebral palsy patients by any nonprofit corporation or association.

(g) Any civic or historic programs or activities by duly incorporated historical societies.

(h) Services, education, training, care or treatment of poor or indigent persons or families by any nonprofit corporation or association.

(i) Any activity for the promotion of the health, safety, morals and general welfare of the community of any nonprofit corporation or association.

(j) The cultivation or use of vacant lots for gardening or recreational purposes.

(k) The provision of electrical transmission service across the lines of a public utility for a county or municipality pursuant to R.S.40:62-12 through R.S.40:62-25.

Except as otherwise provided in subsection (k) of this section, in no event shall any lease under this section be entered into for, with, or on behalf of any commercial, business, trade, manufacturing, wholesaling, retailing, or other profit-making enterprise, nor shall any lease pursuant to this section be entered into with any political, partisan, sectarian, denominational or religious corporation or association, or for any political, partisan, sectarian, denominational or religious purpose, except that a county or municipality may enter into a lease for the use permitted under subsection (j) with a sectarian, denominational or religious corporation; provided the property is not used for a sectarian, denominational or religious purpose. In the case of a municipality the governing body may designate the municipal manager, business administrator or any other municipal official for the purpose of entering into a lease for the use permitted under subsection (j).

69. Section 3 of P.L.1941, c.220 (C.43:7-9) is amended to read as follows:

C.43:7-9 Widow, children or dependent parents; pension to.

3. a. Upon the receipt of proper proofs of the death of a member who shall have lost his life, there shall be paid to his widow or widower a pension of 25% of the member's average final compensation, for the use of herself or himself, to continue during her or his widowhood, plus 15% of such salary payable to one surviving child or plus 25% of such salary to two or more surviving children; if there is no surviving widow or widower or in case the widow or widower dies or remarries, 20% of the member's average final compensation will be payable to one surviving child, 35% of such compensation to two surviving children in equal shares and if there be three or more children, 50% of such compensation will be payable to such children in equal shares; if there is no surviving widow, widower or child, 25% of the member's average final compensation will be payable to one surviving parent or 40% of such compensation will be payable to two surviving parents in equal shares.

b. Upon the receipt of proper proofs of the death after retirement of a former member of the pension fund, there shall be paid to his widow or widower a pension of 25% of the member's average final compensation for the use of herself or himself, to continue during her or his widowhood, plus 15% of such compensation payable to one surviving child or plus 25% of such compensation to two or more surviving children; if there is no surviving widow or widower or in case the widow or widower dies or remarries, 20% of the member's average final compensation will be payable to one

surviving child, 35% of such compensation to two surviving children in equal shares and if there be three or more children, 50% of such compensation will be payable to such children in equal shares.

c. The changes in benefits provided by subsections a. and b. of this section shall apply only to pensions hereafter granted; provided, however, that pensions granted prior to the effective date of this amendatory and supplementary act shall be increased to the schedule of payments stipulated by subsection a. on the first of the month following the commission's approval of those cases where proper evidence is submitted to the satisfaction of the pension commission that the death of the member in active service was the result of an accident met in the actual performance of duty at some definite time and place, that such death was not the result of the member's willful negligence, and that the death occurred within 5 years of the accident; provided, further, that any pension in an amount less than $1,600.00 per annum, presently paid or to be paid in the future to a widow or widower or a prison officer, shall be increased to $1,600.00 per annum.

d. For purposes of this section:

(1) "Child" shall mean a deceased member's unmarried child either (a) under the age of 18 or (b) of any age who, at the time of the member's death, is disabled because of an intellectual disability or physical incapacity, is unable to do any substantial, gainful work because of the impairment and his impairment has lasted or can be expected to last for a continuous period of not less than 12 months, as affirmed by the examining physicians of the fund.

(2) "Widower" shall mean the man to whom a member was married before the date of her retirement or at least 5 years before the date of her death and to whom she continued to be married until the date of her death and who was receiving at least one-half of his support from the member in the 12-month period immediately preceding the member's death or the accident which was the direct cause of the member's death. The dependency of such a widower will be considered terminated by marriage of the widower subsequent to the death of the member.

(3) "Widow" shall mean the woman to whom a member was married before the date of his retirement or at least 5 years before the date of his death and to whom he continued to be married until the date of his death and who has not remarried.

(4) "Parent" shall mean the parent of a member who was receiving at least one-half of his support from the member in the 12-month period immediately preceding the member's death or the accident which was the direct cause of the member's death. The dependency of such a parent will be

considered terminated by marriage of the parent subsequent to the death of the member.

70. Section 1 of P.L.1957, c.168 (C.43:12-28.1) is amended to read as follows:

C.43:12-28.1 Pension for survivors of certain emergency services workers; terms defined.

1. The governing body of any municipality served by a volunteer fire company or first aid or rescue squad shall, by resolution, determine the eligibility for a survivor's pension of the widow or children or parent of any volunteer firefighter, first aid worker, rescue squad worker, or emergency medical technician who has died as the result of injuries sustained in the course of performance of duty as a member of the volunteer fire company or first aid or rescue squad on or after January 1, 2000. A governing body may determine that the widow or children or parent of a volunteer is eligible for a survivor's pension whenever a volunteer dies while responding to, preparing for or returning from an emergency while under orders from a competent authority. When the municipal governing body determines that a widow or children or parent are eligible for a survivor's pension, a certified copy of the resolution shall be filed by the municipal clerk with the State Treasurer within 10 days of adoption, and the State shall provide for payment of the survivor's pension, starting in the first calendar year next following the year of death of the volunteer or the year next following the year in which P.L.2002, c.134 is enacted, whichever is later.

For the purposes of this section, "first aid or rescue squad" shall mean any duly incorporated first aid and emergency or volunteer ambulance or rescue squad association providing volunteer public first aid, ambulance or rescue services within the municipality;

"widow" shall also include "widower";

"child" shall mean a deceased firefighter's, emergency medical technician's, or first aid or rescue squad worker's unmarried child (a) under the age of 18, or (b) 18 years of age or older and enrolled in a secondary school, or (c) under the age of 24 and enrolled in a degree program in an institution of higher education for at least 12 credit hours in each semester, or (d) of any age who, at the time of the firefighter's, technician's or worker's death, is disabled because of an intellectual disability or physical incapacity, is unable to do any substantial, gainful work because of the impairment and the impairment has lasted or can be expected to last for a con-

tinuous period of not less than 12 months, as affirmed by the medical professional; and

"parent" shall mean the parent of a firefighter, emergency medical technician, or first aid or rescue squad worker who was receiving at least one-half of his or her support from the firefighter, technician or worker in the 12-month period immediately preceding the firefighter's, technician's or worker's death. The dependency of such a parent will be considered terminated by marriage of the parent subsequent to the death of the member.

71. Section 6 of P.L.1954, c.84 (C.43:15A-6) is amended to read as follows:

C.43:15A-6 Definitions.

6. As used in this act:

a. "Accumulated deductions" means the sum of all the amounts, deducted from the compensation of a member or contributed by or on behalf of the member, standing to the credit of the member's individual account in the annuity savings fund.

b. "Annuity" means payments for life derived from the accumulated deductions of a member as provided in this act.

c. "Annuity reserve" means the present value of all payments to be made on account of any annuity or benefit in lieu of an annuity, granted under the provisions of this act, computed on the basis of such mortality tables recommended by the actuary as the board of trustees adopts, with regular interest.

d. "Beneficiary" means any person receiving a retirement allowance or other benefit as provided in this act.

e. "Child" means a deceased member's unmarried child either (1) under the age of 18 or (2) of any age who, at the time of the member's death, is disabled because of an intellectual disability or physical incapacity, is unable to do any substantial, gainful work because of the impairment and the impairment has lasted or can be expected to last for a continuous period of not less than 12 months, as affirmed by the medical board.

f. "Parent" shall mean the parent of a member who was receiving at least 1/2 of the parent's support from the member in the 12-month period immediately preceding the member's death or the accident which was the direct cause of the member's death. The dependency of such a parent will be considered terminated by marriage of the parent subsequent to the death of the member.

g. (1) "Widower," for employees of the State, means the man to whom a member was married, or a domestic partner as defined in section 3 of P.L.2003, c.246 (C.26:8A-3), at least five years before the date of her death and to whom she continued to be married or a domestic partner until the date of her death and who was receiving at least 1/2 of his support from the member in the 12-month period immediately preceding the member's death or the accident which was the direct cause of the member's death. The dependency of such a widower will be considered terminated by marriage of, or establishment of a domestic partnership by, the widower subsequent to the death of the member. In the event of the payment of an accidental death benefit, the five-year qualification shall be waived.

(2) Subject to the provisions of paragraph (3) of this subsection, "widower," for employees of public employers other than the State, means the man to whom a member was married at least five years before the date of her death and to whom she continued to be married until the date of her death and who was receiving at least 1/2 of his support from the member in the 12-month period immediately preceding the member's death or the accident which was the direct cause of the member's death. The dependency of such a widower shall be considered terminated by marriage of the widower subsequent to the death of the member. In the event of the payment of an accidental death benefit, the five-year qualification shall be waived.

(3) A public employer other than the State may adopt a resolution providing that the term "widower" as defined in paragraph (2) of this subsection shall include domestic partners as provided in paragraph (1) of this subsection.

h. (1) "Final compensation" means the average annual compensation for which contributions are made for the three years of creditable service in New Jersey immediately preceding the member's retirement or death, or it shall mean the average annual compensation for New Jersey service for which contributions are made during any three fiscal years of his or her membership providing the largest possible benefit to the member or the member's beneficiary.

(2) In the case of a person who becomes a member of the retirement system on or after the effective date of P.L.2010, c.1, "final compensation" means the average annual compensation for which contributions are made for the five years of creditable service in New Jersey immediately preceding the member's retirement or death, or it shall mean the average annual compensation for New Jersey service for which contributions are made during any five fiscal years of his or her membership providing the largest possible benefit to the member or the member's beneficiary.

i. "Fiscal year" means any year commencing with July 1 and ending with June 30 next following.

j. "Medical board" shall mean the board of physicians provided for in section 17 of P.L.1954, c.84 (C.43:15A-17).

k. "Pension" means payments for life derived from appropriations made by the employer as provided in this act.

l. "Pension reserve" means the present value of all payments to be made on account of any pension or benefit in lieu of a pension granted under the provisions of this act, computed on the basis of such mortality tables recommended by the actuary as the board of trustees adopts, with regular interest.

m. "Public Employees' Retirement System of New Jersey," hereinafter referred to as the "retirement system" or "system," is the corporate name of the arrangement for the payment of retirement allowances and other benefits under the provisions of this act including the several funds placed under said system. By that name all of its business shall be transacted, its funds invested, warrants for money drawn, and payments made and all of its cash and securities and other property held.

n. "Regular interest" shall mean interest as determined by the State Treasurer, after consultation with the Directors of the Divisions of Investment and Pensions, the board of trustees and the actuary. It shall bear a reasonable relationship to the percentage rate of earnings on investments based on the market value of the assets but shall not exceed the assumed percentage rate of increase applied to salaries plus 3%, provided however that the board of trustees shall not set the average percentage rate of increase applied to salaries below 6%.

o. "Retirement allowance" means the pension plus the annuity.

p. "Veteran" means any honorably discharged officer, soldier, sailor, airman, marine or nurse who served in any Army, Air Force or Navy of the Allies of the United States in World War I, between July 14, 1914, and November 11, 1918, or who served in any Army, Air Force or Navy of the Allies of the United States in World War II, between September 1, 1939, and September 2, 1945, and who was inducted into such service through voluntary enlistment, and was a citizen of the United States at the time of such enlistment, and who did not, during or by reason of such service, renounce or lose United States citizenship, and any officer, soldier, sailor, marine, airman, nurse or army field clerk, who has served in the active military or naval service of the United States and has or shall be discharged or released therefrom under conditions other than dishonorable, in any of the following wars, uprisings, insurrections, expeditions, or emergencies, and who has

presented to the retirement system evidence of such record of service in form and content satisfactory to said retirement system:

(1) The Indian wars and uprisings during any of the periods recognized by the War Department of the United States as periods of active hostility;

(2) The Spanish-American War between April 20, 1898, and April 11, 1899;

(3) The Philippine insurrections and expeditions during the periods recognized by the War Department of the United States as of active hostility from February 4, 1899, to the end of 1913;

(4) The Peking relief expedition between June 20, 1900, and May 27, 1902;

(5) The army of Cuban occupation between July 18, 1898, and May 20, 1902;

(6) The army of Cuban pacification between October 6, 1906, and April 1, 1909;

(7) The Mexican punitive expedition between March 14, 1916, and February 7, 1917;

(8) The Mexican border patrol, having actually participated in engagements against Mexicans between April 12, 1911, and June 16, 1919;

(9) World War I, between April 6, 1917, and November 11, 1918;

(10) World War II, between September 16, 1940, and December 31, 1946, who shall have served at least 90 days in such active service, exclusive of any period of assignment (1) for a course of education or training under the Army Specialized Training Program or the Navy College Training Program which course was a continuation of a civilian course and was pursued to completion, or (2) as a cadet or midshipman at one of the service academies any part of which 90 days was served between said dates; provided, that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person has completed the 90-day service as herein provided;

(11) Korean conflict on or after June 23, 1950, and on or prior to January 31, 1955, who shall have served at least 90 days in such active service, exclusive of any period of assignment (1) for a course of education or training under the Army Specialized Training Program or the Navy College Training Program which course was a continuation of a civilian course and was pursued to completion, or (2) as a cadet or midshipman at one of the service academies, any part of which 90 days was served between said dates; provided, that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person has completed the 90-day service as herein provided; and provided further, that

any member classed as a veteran pursuant to this paragraph prior to August 1, 1966, shall continue to be classed as a veteran whether or not that person completed the 90-day service between said dates as herein provided;

(12) Lebanon crisis, on or after July 1, 1958, who has served in Lebanon or on board any ship actively engaged in patrolling the territorial waters of that nation for a period, continuous or in the aggregate, of at least 14 days commencing on or before November 1, 1958 or the date of termination of that conflict, as proclaimed by the President of the United States or Congress, whichever date of termination is the latest, in such active service; provided, that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person has completed the 14 days' service as herein provided;

(13) Vietnam conflict on or after December 31, 1960, and on or prior to May 7, 1975, who shall have served at least 90 days in such active service, exclusive of any period of assignment (1) for a course of education or training under the Army Specialized Training Program or the Navy College Training Program which course was a continuation of a civilian course and was pursued to completion, or (2) as a cadet or midshipman at one of the service academies, any part of which 90 days was served between said dates; and exclusive of any service performed pursuant to the provisions of section 511(d) of Title 10, United States Code, pursuant to an enlistment in the Army National Guard or as a reserve for service in the Army Reserve, Naval Reserve, Air Force Reserve, Marine Corps Reserve, or Coast Guard Reserve; provided, that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person has completed the 90 days' service as herein provided;

(14) Lebanon peacekeeping mission, on or after September 26, 1982, who has served in Lebanon or on board any ship actively engaged in patrolling the territorial waters of that nation for a period, continuous or in the aggregate, of at least 14 days commencing on or before December 1, 1987 or the date of termination of that mission, as proclaimed by the President of the United States or Congress, whichever date of termination is the latest, in such active service; provided, that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person has completed the 14 days' service as herein provided;

(15) Grenada peacekeeping mission, on or after October 23, 1983, who has served in Grenada or on board any ship actively engaged in patrolling the territorial waters of that nation for a period, continuous or in the aggregate, of at least 14 days commencing on or before November 21, 1983 or the date of termination of that mission, as proclaimed by the President of

the United States or Congress, whichever date of termination is the latest, in such active service; provided, that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person has completed the 14 days' service as herein provided;

(16) Panama peacekeeping mission, on or after December 20, 1989 or the date of inception of that mission, as proclaimed by the President of the United States or Congress, whichever date of inception is earliest, who has served in Panama or on board any ship actively engaged in patrolling the territorial waters of that nation for a period, continuous or in the aggregate, of at least 14 days commencing on or before January 31, 1990 or the date of termination of that mission, as proclaimed by the President of the United States or Congress, whichever date of termination is the latest, in such active service; provided, that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person has completed the 14 days' service as herein provided;

(17) Operation "Desert Shield/Desert Storm" mission in the Arabian peninsula and the Persian Gulf, on or after August 2, 1990 or the date of inception of that operation, as proclaimed by the President of the United States or Congress, whichever date of inception is earliest, who has served in the Arabian peninsula or on board any ship actively engaged in patrolling the Persian Gulf for a period, continuous or in the aggregate, of at least 14 days commencing on or before the date of termination of that mission, as proclaimed by the President of the United States or Congress, whichever date of termination is the latest, in such active service; provided, that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person has completed the 14 days' service as herein provided;

(18) Operation Northern Watch and Operation Southern Watch, on or after August 27, 1992, or the date of inception of that operation, as proclaimed by the President of the United States, Congress or United States Secretary of Defense, whichever date of inception is earliest, who served in the theater of operation, including in the Arabian peninsula and the Persian Gulf, and in direct support of that operation for a period, continuously or in the aggregate, of at least 14 days in such active service, commencing on or before the date of termination of that operation, as proclaimed by the President of the United States, Congress or United States Secretary of Defense, whichever date of termination is the latest; provided, that any person receiving an actual service-incurred injury or disability while engaged in such service shall be classed as a veteran whether or not that person has completed the 14 days' service as herein provided;

(19) Operation "Restore Hope" in Somalia, on or after December 5, 1992, or the date of inception of that operation as proclaimed by the President of the United States or Congress, whichever date is earliest, who has served in Somalia or on board any ship actively engaged in patrolling the territorial waters of that nation for a period, continuously or in the aggregate, of at least 14 days in such active service commencing on or before March 31, 1994; provided that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person has completed the 14-day service as herein provided;

(20) Operations "Joint Endeavor" and "Joint Guard" in the Republic of Bosnia and Herzegovina, on or after November 20, 1995, who served in such active service in direct support of one or both of the operations for at least 14 days, continuously or in the aggregate, commencing on or before June 20, 1998 and (1) was deployed in that nation or in another area in the region, or (2) was on board a United States naval vessel operating in the Adriatic Sea, or (3) operated in airspace above the Republic of Bosnia and Herzegovina; provided that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person completed the 14-day service requirement;

(21) Operation "Enduring Freedom", on or after September 11, 2001, who served in a theater of operation and in direct support of that operation for a period, continuously or in the aggregate, of at least 14 days in such active service commencing on or before the date the President of the United States or the United States Secretary of Defense designates as the termination date of that operation; provided, that any person receiving an actual service-incurred injury or disability while engaged in such service shall be classed as a veteran whether or not that person has completed the 14 days' service as herein provided; and

(22) Operation "Iraqi Freedom", on or after the date the President of the United States or the United States Secretary of Defense designates as the inception date of that operation, who served in Iraq or in another area in the region in direct support of that operation for a period, continuously or in the aggregate, of at least 14 days in such active service commencing on or before the date the President of the United States or the United States Secretary of Defense designates as the termination date of that operation; provided, that any person receiving an actual service-incurred injury or disability while engaged in such service shall be classed as a veteran whether or not that person has completed the 14 days' service as herein provided.

"Veteran" also means any honorably discharged member of the American Merchant Marine who served during World War II and is declared by

the United States Department of Defense to be eligible for federal veterans' benefits.

q. (1) "Widow," for employees of the State, means the woman to whom a member was married, or a domestic partner as defined in section 3 of P.L.2003, c.246 (C.26:8A-3), at least five years before the date of his death and to whom he continued to be married or a domestic partner until the date of his death and who was receiving at least 1/2 of her support from the member in the 12-month period immediately preceding the member's death or the accident which was the direct cause of the member's death. The dependency of such a widow will be considered terminated by the marriage of, or establishment of a domestic partnership by, the widow subsequent to the member's death. In the event of the payment of an accidental death benefit, the five-year qualification shall be waived.

(2) Subject to the provisions of paragraph (3) of this subsection, "widow," for employees of public employers other than the State, means the woman to whom a member was married at least five years before the date of his death and to whom he continued to be married until the date of his death and who was receiving at least 1/2 of her support from the member in the 12-month period immediately preceding the member's death or the accident which was the direct cause of the member's death. The dependency of such a widow shall be considered terminated by the marriage of the widow subsequent to the member's death. In the event of the payment of an accidental death benefit, the five-year qualification shall be waived.

(3) A public employer other than the State may adopt a resolution providing that the term "widow" as defined in paragraph (2) of this subsection shall include domestic partners as provided in paragraph (1) of this subsection.

r. (1) "Compensation" means the base or contractual salary, for services as an employee, which is in accordance with established salary policies of the member's employer for all employees in the same position but shall not include individual salary adjustments which are granted primarily in anticipation of the member's retirement or additional remuneration for performing temporary or extracurricular duties beyond the regular workday or the regular work year.

(2) In the case of a person who becomes a member of the retirement system on or after July 1, 2007, "compensation" means the amount of base or contractual salary equivalent to the annual maximum wage contribution base for Social Security, pursuant to the Federal Insurance Contributions Act, for services as an employee, which is in accordance with established salary policies of the member's employer for all employees in the same position but shall not include individual salary adjustments which are granted

primarily in anticipation of the member's retirement or additional remuneration for performing temporary or extracurricular duties beyond the regular workday or the regular work year. This paragraph shall not apply to a person who at the time of enrollment in the retirement system on or after July 1, 2007 transfers service credit from another State-administered retirement system pursuant to section 14 of P.L.1954, c.84 (C.43:15A-14), but shall apply to a former member of the retirement system who has been granted a retirement allowance and is reenrolled in the retirement system on or after July 1, 2007 pursuant to section 27 of P.L.1966, c.217 (C.43:15A-57.2) after becoming employed again in a position that makes the person eligible to be a member of the retirement system.

In cases where salary includes maintenance, the retirement system shall fix the value of that part of the salary not paid in money which shall be considered under this act.

For the period of July 1, 2009 through June 30, 2011, "contractual salary" for State employees shall include across the board negotiated wage increases under a collective negotiations agreement that were payable to all State employees covered by that agreement notwithstanding that, by amendment to that collective negotiations agreement, the effective date of the contractual increase has been deferred. For the purpose of this paragraph, "State employee" means an employee in the Executive Branch or the Judicial Branch of State government of New Jersey or an employee of the State University authorized to participate in the system under subsection b. of section 73 of P.L.1954, c.84 (C.43:15A-73), but shall not include employees of agencies authorized to participate in the system under subsections a., c., d., e., f., and g. of section 73 of P.L.1954, c.84 (C.43:15A-73) or under P.L.1990, c.25 (C.43:15A-73.2 et al.).

For the period of July 1, 2009 through June 30, 2011, "contractual salary" for county and municipal employees shall include across the board negotiated wage increases under a collective negotiations agreement that were payable to all county or all municipal employees covered by that agreement notwithstanding that, by amendment to that collective negotiations agreement which has been filed with the Division of Pensions and Benefits, the effective date of the contractual increase has been deferred. For the purpose of this paragraph, "county and municipal employees" means all persons employed by a county or municipality in this State.

72. Section 1 of P.L.2001, c.259 (C.43:15A-142) is amended to read as follows:

C.43:15A-142 Definitions relative to retirement benefits for workers compensation judges.

1. As used in this act, P.L.2001, c.259 (C.43:15A-142 et seq.):

"Aggregate public service" includes service as a workers compensation judge and in an office, position, or employment of this State or of a county, municipality, board of education, or public agency of this State.

"Beneficiary" means any person entitled to receive any benefit pursuant to the provisions of this act by reason of the death of a member or retirant.

"Child" means a deceased member's or retirant's unmarried child who is (a) under the age of 18; (b) of any age who, at the time of the member's or retirant's death, is disabled because of an intellectual disability or physical incapacity, is unable to do any substantial, gainful work because of the impairment, and the impairment has lasted or can be expected to last for a continuous period of not less than 12 months, as affirmed by the medical board; or (c) under the age of 21 and is attending school full time.

"Final salary" means the annual salary received by the member at the time of retirement or death.

"Retirant" means any former member receiving a pension or retirement allowance as provided by this act.

"Widow" means the woman to whom a member was married at least four years before the date of his death and to whom he continued to be married until the date of his death. The eligibility of a widow to receive a survivor's benefit shall be considered terminated by the marriage of the widow subsequent to the member's or the retirant's death. In the event of accidental death, the four-year qualification shall be waived. When used in this act, the term "widow" shall mean and include "widower" as may be necessary and appropriate to the particular situation.

"Widower" means the man to whom a member was married at least four years before the date of her death and to whom she continued to be married until the date of her death. The eligibility of a widower to receive a survivor's benefit shall be considered terminated by the marriage of the widower subsequent to the member's or the retirant's death. In the event of accidental death, the four-year qualification shall be waived.

"Workers compensation judges" means the Chief Judges, administrative supervisory judges, supervisory judges and judges of compensation of the Division of Workers' Compensation of the Department of Labor and Workforce Development.

73. Section 12 of P.L.1944, c.253 (C.43:16-17) is amended to read as follows:

C.43:16-17 Definitions.

12. The following words and phrases as used in this act, unless a different meaning is plainly required by the context, shall have the following meanings:

(1) "Member" shall mean a person who on July 1, 1944, was a member of a municipal police department or paid or part-paid fire department or county police department or a paid or part-paid fire department of a fire district located in a township and who has contributed to the pension fund established under chapter 16 of Title 43 of the Revised Statutes and shall hereafter contribute to said fund.

(2) "Active member" shall mean any "member" who is a police officer, firefighter, detective, line person, driver of police van, fire alarm operator or inspector of combustibles and who is subject to call for active service or duty as such.

(3) "Employee member" shall mean any "member" who is not subject to call for active service or duty as a police officer, firefighter, detective, line person, driver of police van, fire alarm operator or inspector of combustibles.

(4) "Commission" shall mean the board having the general responsibility for the proper operation of the pension fund created by this act, subject to the provisions of chapter 70 of the laws of 1955.

(5) "Physician or surgeon" shall mean the medical board composed of physicians who shall be called upon to determine the disability of members as provided by this act.

(6) "Employer" shall mean the county, municipality or agency thereof by which a member is employed.

(7) "Service" shall mean service rendered while a member is employed by a municipal police department, paid or part-paid fire department, county police department or paid or part-paid fire department of a fire district located in a township prior to the effective date of this act for such service to such departments thereafter.

(8) "Pension" shall mean the amount payable to a member or the member's beneficiary under the provisions of this act.

(9) "Average salary" shall mean the average salary paid during the last three years of a member's service.

(10) "Beneficiary" shall mean any person or persons, other than a member, receiving or entitled to receive a pension or benefits, as provided by this act.

(11) "Parent" shall mean the parent of a member who was receiving at least one-half of that parent's support from the member in the 12-month

period immediately preceding the member's death or the accident which was the direct cause of the member's death. The dependency of such a parent will be considered terminated by marriage of the parent subsequent to the death of the member.

(12) "County police" shall mean all police officers having supervision of regulation of traffic upon county roads.

(13) (Deleted by amendment, P.L.1989, c.78.)

(14) "Surviving spouse" shall mean the person to whom a member was married before the date of retirement or at least two years before the date of the member's death and whose marriage to the member continued until the member's death.

(15) "Child" shall mean a deceased member's unmarried child either (a) under the age of 18 or (b) of any age who, at the time of the member's death, is disabled because of an intellectual disability or physical incapacity, is unable to do any substantial, gainful work because of the impairment and whose impairment has lasted or can be expected to last for a continuous period of not less than 12 months, as affirmed by the examining physicians of the fund.

(16) "Regular interest" shall mean interest as determined by the State Treasurer, after consultation with the Directors of the Divisions of Investment and Pensions, the commission and the actuary. It shall bear a reasonable relationship to the percentage rate of earnings on investments based on the market value of the assets but shall not exceed the assumed percentage rate of increase applied to salaries plus 3%, provided however that the commission shall not set the average percentage rate of increase applied to salaries below 6%.

(17) "Final compensation" shall mean the compensation received by the member in the last 12 months of service preceding retirement.

(18) "Compensation" shall mean the base salary, for services as a member as defined in this act, which is in accordance with established salary policies of the member's employer for all employees in the same position but shall not include individual salary adjustments which are granted primarily in anticipation of the member's retirement or additional remuneration for performing temporary duties beyond the regular workday.

74. Section 1 of P.L.1944, c.255 (C.43:16A-1) is amended to read as follows:

C.43:16A-1 Definitions relative to Police and Firemen's Retirement System.

1. As used in this act:

(1) "Retirement system" or "system" shall mean the Police and Firemen's Retirement System of New Jersey as defined in section 2 of this act.

(2) (a) "Policeman" shall mean a permanent, full-time employee of a law enforcement unit as defined in section 2 of P.L.1961, c.56 (C.52:17B-67) or the State, other than an officer or trooper of the Division of State Police whose position is covered by the State Police Retirement System, whose primary duties include the investigation, apprehension or detention of persons suspected or convicted of violating the criminal laws of the State and who:

(i) is authorized to carry a firearm while engaged in the actual performance of his official duties;

(ii) has police powers;

(iii) is required to complete successfully the training requirements prescribed by P.L.1961, c.56 (C.52:17B-66 et seq.) or comparable training requirements as determined by the board of trustees; and

(iv) is subject to the physical and mental fitness requirements applicable to the position of municipal police officer established by an agency authorized to establish these requirements on a Statewide basis, or comparable physical and mental fitness requirements as determined by the board of trustees.

The term shall also include an administrative or supervisory employee of a law enforcement unit or the State whose duties include general or direct supervision of employees engaged in investigation, apprehension or detention activities or training responsibility for these employees and a requirement for engagement in investigation, apprehension or detention activities if necessary, and who is authorized to carry a firearm while in the actual performance of his official duties and has police powers.

(b) "Fireman" shall mean a permanent, full-time employee of a firefighting unit whose primary duties include the control and extinguishment of fires and who is subject to the training and physical and mental fitness requirements applicable to the position of municipal firefighter established by an agency authorized to establish these requirements on a Statewide basis, or comparable training and physical and mental fitness requirements as determined by the board of trustees. The term shall also include an administrative or supervisory employee of a firefighting unit whose duties include general or direct supervision of employees engaged in fire control and extinguishment activities or training responsibility for these employees and a requirement for engagement in fire control and extinguishment activities if necessary. As used in this paragraph, "firefighting unit" shall mean a mu-

nicipal fire department, a fire district, or an agency of a county or the State which is responsible for control and extinguishment of fires.

(3) "Member" shall mean any policeman or fireman included in the membership of the retirement system pursuant to this amendatory and supplementary act, P.L.1989, c.204 (C.43:16A-15.6 et al.).

(4) "Board of trustees" or "board" shall mean the board provided for in section 13 of this act.

(5) "Medical board" shall mean the board of physicians provided for in section 13 of this act.

(6) "Employer" shall mean the State of New Jersey, the county, municipality or political subdivision thereof which pays the particular policeman or fireman.

(7) "Service" shall mean service as a policeman or fireman paid for by an employer.

(8) "Creditable service" shall mean service rendered for which credit is allowed as provided under section 4 of this act.

(9) "Regular interest" shall mean interest as determined by the State Treasurer, after consultation with the Directors of the Divisions of Investment and Pensions, the board of trustees and the actuary. It shall bear a reasonable relationship to the percentage rate of earnings on investments based on the market value of assets but shall not exceed the assumed percentage rate of increase applied to salaries plus 3%, provided however that the board of trustees shall not set the average percentage rate of increase applied to salaries below 6%.

(10) "Aggregate contributions" shall mean the sum of all the amounts, deducted from the compensation of a member or contributed by him or on his behalf, standing to the credit of his individual account in the annuity savings fund.

(11) "Annuity" shall mean payments for life derived from the aggregate contributions of a member.

(12) "Pension" shall mean payments for life derived from contributions by the employer.

(13) "Retirement allowance" shall mean the pension plus the annuity.

(14) "Earnable compensation" shall mean the full rate of the salary that would be payable to an employee if he worked the full normal working time for his position. In cases where salary includes maintenance, the retirement system shall fix the value of that part of the salary not paid in money which shall be considered under this act.

(15) "Average final compensation" shall mean final compensation.

(16) "Retirement" shall mean the termination of the member's active service with a retirement allowance granted and paid under the provisions of this act.

(17) "Annuity reserve" shall mean the present value of all payments to be made on account of any annuity or benefit in lieu of any annuity computed upon the basis of such mortality tables recommended by the actuary as shall be adopted by the board of trustees, and regular interest.

(18) "Pension reserve" shall mean the present value of all payments to be made on account of any pension or benefit in lieu of any pension computed upon the basis of such mortality tables recommended by the actuary as shall be adopted by the board of trustees, and regular interest.

(19) "Actuarial equivalent" shall mean a benefit of equal value when computed upon the basis of such mortality tables recommended by the actuary as shall be adopted by the board of trustees, and regular interest.

(20) "Beneficiary" shall mean any person receiving a retirement allowance or other benefit as provided by this act.

(21) "Child" shall mean a deceased member's or retirant's unmarried child (a) under the age of 18, or (b) 18 years of age or older and enrolled in a secondary school, or (c) under the age of 24 and enrolled in a degree program in an institution of higher education for at least 12 credit hours in each semester, provided that the member died in active service as a result of an accident met in the actual performance of duty at some definite time and place, and the death was not the result of the member's willful misconduct, or (d) of any age who, at the time of the member's or retirant's death, is disabled because of an intellectual disability or physical incapacity, is unable to do any substantial, gainful work because of the impairment and his impairment has lasted or can be expected to last for a continuous period of not less than 12 months, as affirmed by the medical board.

(22) "Parent" shall mean the parent of a member who was receiving at least one-half of his support from the member in the 12-month period immediately preceding the member's death or the accident which was the direct cause of the member's death. The dependency of such a parent will be considered terminated by marriage of the parent subsequent to the death of the member.

(23) (a) "Widower," for employees of the State, means the man to whom a member or retirant was married, or a domestic partner as defined in section 3 of P.L.2003, c.246 (C.26:8A-3), on the date of her death and who has not since remarried or established a domestic partnership. In the event of the payment of accidental death benefits, pursuant to section 10 of P.L.1944, c.255 (C.43:16A-10), the restriction concerning remarriage or establishment of a domestic partnership shall be waived.

(b) Subject to the provisions of paragraph (c) of this subsection, "widower," for employees of public employers other than the State, means the man to whom a member or retirant was married on the date of her death and who has not remarried.

(c) A public employer other than the State may adopt a resolution providing that the term "widower" as defined in paragraph (b) of this subsection shall include domestic partners as provided in paragraph (a) of this subsection.

(24) (a) "Widow," for employees of the State, means the woman to whom a member or retirant was married, or a domestic partner as defined in section 3 of P.L.2003, c.246 (C.26:8A-3), on the date of his death and who has not since remarried or established a domestic partnership. In the event of the payment of accidental death benefits, pursuant to section 10 of P.L.1944, c.255 (C.43:16A-10), the restriction concerning remarriage or establishment of a domestic partnership shall be waived.

(b) Subject to the provisions of paragraph (c) of this subsection, "widow," for employees of public employers other than the State, means the woman to whom a member or retirant was married on the date of his death and who has not remarried.

(c) A public employer other than the State may adopt a resolution providing that the term "widow" as defined in paragraph (b) of this subsection shall include domestic partners as provided in paragraph (a) of this subsection.

(25) "Fiscal year" shall mean any year commencing with July 1, and ending with June 30, next following.

(26) (a) "Compensation" shall mean the base salary, for services as a member as defined in this act, which is in accordance with established salary policies of the member's employer for all employees in the same position but shall not include individual salary adjustments which are granted primarily in anticipation of the member's retirement or additional remuneration for performing temporary duties beyond the regular workday.

(b) In the case of a person who becomes a member of the retirement system on or after the effective date of P.L.2010, c.1, "compensation" means the amount of base salary equivalent to the annual maximum wage contribution base for Social Security, pursuant to the Federal Insurance Contributions Act, for services as a member as defined in this act, which is in accordance with established salary policies of the member's employer for all employees in the same position but shall not include individual salary adjustments which are granted primarily in anticipation of the member's retirement or additional remuneration for performing temporary duties beyond the regular workday.

(27) "Department" shall mean any police or fire department of a municipality or a fire department of a fire district located in a township or a county police or park police department or the appropriate department of the State or instrumentality thereof.

(28) (a) "Final compensation" means the compensation received by the member in the last 12 months of creditable service preceding his retirement or death.

(b) In the case of a person who becomes a member of the retirement system on or after the effective date of P.L.2010, c.1, "final compensation" means the average annual compensation for service for which contributions are made during any three fiscal years of membership providing the largest possible benefit to the member or the member's beneficiary.

(29) (Deleted by amendment, P.L.1992, c.78).

(30) (Deleted by amendment, P.L.1992, c.78).

(31) (a) "Spouse," for employees of the State, means the husband or wife, or domestic partner as defined in section 3 of P.L.2003, c.246 (C.26:8A-3), of a member.

(b) Subject to the provisions of paragraph (c) of this subsection, "spouse," for employees of public employers other than the State, means the husband or wife of a member.

(c) A public employer other than the State may adopt a resolution providing that the term "spouse" as defined in paragraph (b) of this subsection shall include domestic partners as provided in paragraph (a) of this subsection.

75. Section 35 of P.L.1979, c.496 (C.44:7-93) is amended to read as follows:

C.44:7-93 Services provided to eligible residents by county welfare board.

35. a. As used in this section, "eligible resident" means a resident of a residential health care facility, rooming house or boarding house who is: eligible to receive services under the latest New Jersey Comprehensive Annual Services Program Plan for the use of funds appropriated under Title XX of the Federal Social Security Act; an "eligible person" under the act to which this act is a supplement; an otherwise aged, blind or disabled person; or a resident designated to be eligible by the Commissioner of Human Services.

b. County welfare boards shall provide services to eligible residents of residential health care facilities, rooming houses and boarding houses which shall include, but not be limited to, the following:

(1) Investigation and evaluation of reports of abuse or exploitation, as defined in section 36 hereunder, or of threats of such abuse or exploitation of eligible residents, at the direction of the Commissioner of Human Services;

(2) Visits to all such facilities having eligible residents, at regularly scheduled intervals to assess the needs of such residents, determine whether they are receiving needed services and appropriate levels of care, and to provide such services where appropriate;

(3) Provision of information to eligible residents concerning social service, welfare, mental health, home health and medical assistance programs available to them; referral of eligible residents to State, county and local agencies and organizations for any such services which county welfare boards cannot provide; and follow up to such referrals to determine whether such services are being provided;

(4) Reporting of any suspected violations of the provisions of this act and of any complaints received concerning services and conditions in such facilities to the commissioner and to appropriate State and local agencies for remedial action; and

(5) Provision of information to eligible residents whose continued residence in such facilities may be injurious or dangerous to their health concerning alternative housing and living arrangements available to them.

County welfare boards shall coordinate all services provided under this subsection with services provided to eligible residents by the State Divisions of Mental Health and Addiction Services and Developmental Disabilities in the Department of Human Services and Division of Youth and Family Services in the Department of Children and Families, charitable institutions and other State and local agencies and service providers.

c. In order to fulfill their responsibilities under subsection b. above, county welfare boards shall be entitled to receive full and free access to residential health care facilities, rooming houses and boarding houses by the owners and operators of such facilities, and to receive cooperation and assistance from State and local law enforcement officials as needed.

d. The Commissioner of Human Services shall:

(1) Promulgate all necessary regulations to implement the provisions of this section;

(2) Maintain a central file of all complaints received concerning suspected violations of the provisions of this act and concerning services and conditions at residential health care facilities, rooming houses and boarding houses and shall maintain a record of the State and local agencies to which complaints have been referred by county welfare boards; refer any such complaints received by the commissioner to State and local agencies for

remedial action as necessary; and follow up all complaints to determine whether such action has been taken;

(3) Provide such training and educational programs to the operators of such facilities as will enable them to appropriately respond to the needs of their residents;

(4) Designate agencies to:

(a) Identify those residential health care facilities, rooming houses and boarding houses in which substantial numbers of persons reside who are in need of mental health or developmental disabilities services;

(b) Receive referrals and be responsible for the provision of mental health or developmental disability services, or both;

(c) Report any apparent violation of this act to the appropriate State and local officials and authorities;

(d) Coordinate their efforts with county welfare boards, charitable institutions, the State Divisions of Mental Health and Addiction Services and Developmental Disabilities in the Department of Human Services and Division of Youth and Family Services in the Department of Children and Families, and other State and local entities and service providers;

(5) Periodically monitor and evaluate services provided to eligible residents by county welfare boards and community agencies serving persons with mental illness or developmental disabilities;

(6) Issue a report to the Legislature's Standing Reference Committees on Health, Human Services and Senior Citizens concerning the implementation of this section, 1 year following the effective date of this act.

e. Any person who submits or reports a complaint concerning a suspected violation of the provisions of this act or concerning services and conditions in residential health care facilities, rooming houses and boarding houses, or who testifies in any administrative or judicial proceeding arising from such a complaint, shall have immunity from any civil or criminal liability on account of such complaint, unless such person has acted in bad faith or with malicious purpose.

76. Section 2 of P.L.2009, c.41 (C.45:9-37.112) is amended to read as follows:

C.45:9-37.112 Findings, declarations relative to genetic counselors.

2. The Legislature finds that: the profession of genetic counseling has existed for more than 30 years. Genetic counseling is a communication process which deals with the human problems associated with the occurrence, or the risk of occurrence, of a genetic disorder, birth defect, or intel-

lectual disability in a family. This process involves an attempt by one or more appropriately trained individuals to help an individual or family: comprehend the medical facts, including the diagnostic, probable course and available management of a disorder, as well as the risk of occurrence in specified relatives; understand the options for dealing with the risk of recurrence; choose the course of action that seems appropriate to that individual or family in view of the risk and the family goals and to act in accordance with that decision; and make the best possible adjustment to the disorder in affected family members and to the risk of occurrence or recurrence of the disorder.

The Legislature further finds that: the profession of genetic counseling profoundly affects the lives of the people of New Jersey; and informed individual decisions to undergo a genetic test and intellectually sound and emotionally healthy responses to the discovery of a genetic anomaly can be facilitated by professional genetic counseling; however, misuse of those same genetic tests or information used for individual decisions may result in inappropriate decision making, loss of privacy, discrimination, inappropriate medical referrals, and unnecessary emotional distress.

The Legislature declares, therefore, that this act is intended to protect the people of New Jersey by setting standards of qualification, education, training and experience for those persons seeking to practice and be licensed as genetic counselors and by promoting high standards of professional performance for those presently practicing as genetic counselors and for those who will be licensed to practice genetic counseling in the State.

77. Section 3 of P.L.1977, c.379 (C.52:27D-172) is amended to read as follows:

C.52:27D-172 Definitions.

3. For the purposes of this act:

a. "Commissioner" means the Commissioner of Community Affairs.

b. "Handicapped persons" means persons who have intellectual disabilities or who are visually handicapped, auditorily handicapped, communication handicapped, neurologically or perceptually impaired, orthopedically handicapped, chronically ill, emotionally disturbed, socially maladjusted, multiply handicapped, or have a developmental disability.

78. Section 12 of P.L.2005, c.155 (C.52:27EE-12) is amended to read as follows:

C.52:27EE-12 Definitions.

12. Definitions.

As used in sections 27, 32, 33, 48, 50, 51 and 64 of P.L.2005, c.155 (C.52:27EE-27, C.52:27EE-32, C.52:27EE-33, C.52:27EE-48, C.52:27EE-50, C.52:27EE-51 and C.52:27EE-64):

"consumer insurance rate increases" means prior approval rate increases for: personal lines property casualty coverages; Medicare supplemental coverages; or a rating system change pursuant to section 14 of P.L.1997, c.151 (C.17:29A-46.1 et seq.);

"correctional facility" means a jail, prison, lockup, penitentiary, reformatory, training school, or other similar facility within the State of New Jersey;

"elderly" means a person age 60 years or older;

"facility" whenever referred to in section 64 of P.L.2005, c.155 (C.52:27EE-64), means any facility or institution, whether public or private, offering health or health related services for the institutionalized elderly, and which is subject to regulation, visitation, inspection, or supervision by any government agency. Facilities include, but are not limited to, nursing homes, skilled nursing homes, intermediate care facilities, extended care facilities, convalescent homes, rehabilitation centers, residential health care facilities, special hospitals, veterans' hospitals, chronic disease hospitals, psychiatric hospitals, mental hospitals, developmental centers or facilities, day care facilities for the elderly, and medical day care centers;

"indigent mental hospital admittee" means a person who has been admitted to and is a patient in a mental hospital, an institution for the care and treatment of persons with mental illness, or a similar facility, whether public or private, State, county or local, or who is the subject of an action for admission as provided by P.L.1987, c.116 (C.30:4-27.1 et seq.) and who does not have the financial ability to secure competent representation and to provide all other necessary expenses of representation;

"institutionalized elderly" means any person 60 years of age or older, who is a patient, resident or client of any facility, as described herein;

"public interest" means an interest or right arising from the Constitution, decisions of court, common law or other laws of the United States or of this State inhering in the citizens of this State or in a broad class of such citizens.

79. Section 2 of P.L.1977, c.239 (C.52:27G-2) is amended to read as follows:

C.52:27G-2 Definitions.

2. As used in this act, unless the context clearly indicates otherwise:

a. "Abuse" means the willful infliction of physical pain, injury or mental anguish; unreasonable confinement; or the willful deprivation of services which are necessary to maintain a person's physical and mental health. However, no person shall be deemed to be abused for the sole reason he is being furnished nonmedical remedial treatment by spiritual means through prayer alone, in accordance with a recognized religious method of healing, in lieu of medical treatment;

b. An "act" of any facility or government agency shall be deemed to include any failure or refusal to act by such facility or government agency;

c. "Administrator" means any person who is charged with the general administration or supervision of a facility, whether or not such person has an ownership interest in such facility, and whether or not such person's functions and duties are shared with one or more other persons;

d. "Caretaker" means a person employed by a facility to provide care or services to an elderly person, and includes, but is not limited to, the administrator of a facility;

e. "Exploitation" means the act or process of using a person or his resources for another person's profit or advantage without legal entitlement to do so;

f. "Facility" means any facility or institution, whether public or private, offering health or health related services for the institutionalized elderly, and which is subject to regulation, visitation, inspection, or supervision by any government agency. Facilities include, but are not limited to, nursing homes, skilled nursing homes, intermediate care facilities, extended care facilities, convalescent homes, rehabilitation centers, residential health care facilities, special hospitals, veterans' hospitals, chronic disease hospitals, psychiatric hospitals, mental hospitals, developmental centers or facilities, day care facilities for the elderly and medical day care centers;

g. "Government agency" means any department, division, office, bureau, board, commission, authority, or any other agency or instrumentality created by the State or to which the State is a party, or by any county or municipality, which is responsible for the regulation, visitation, inspection or supervision of facilities, or which provides services to patients, residents or clients of facilities;

h. "Guardian" means any person with the legal right to manage the financial affairs and protect the rights of any patient, resident or client of a facility, who has been declared an incapacitated person by a court of competent jurisdiction;

i. "Institutionalized elderly," "elderly" or "elderly person" means any person 60 years of age or older, who is a patient, resident or client of any facility;

j. "Office" means the Office of the Ombudsman for the Institutionalized Elderly established herein;

k. "Ombudsman" means the administrator and chief executive officer of the Office of the Ombudsman for the Institutionalized Elderly;

l. "Patient, resident or client" means any elderly person who is receiving treatment or care in any facility in all its aspects, including, but not limited to, admission, retention, confinement, commitment, period of residence, transfer, discharge and any instances directly related to such status.

80. Section 3 of P.L.1965, c.89 (C.53:5A-3) is amended to read as follows:

C.53:5A-3 Definitions relative to State Police Retirement System.

3. As used in this act:

a. "Aggregate contributions" means the sum of all the amounts, deducted from the salary of a member or contributed by him or on his behalf, standing to the credit of his individual account in the Annuity Savings Fund. Interest credited on contributions to the former "State Police Retirement and Benevolent Fund" shall be included in a member's aggregate contributions.

b. "Annuity" means payments for life derived from the aggregate contributions of a member.

c. "Annuity reserve" means the present value of all payments to be made on account of any annuity or benefit in lieu of an annuity, computed upon the basis of such mortality tables recommended by the actuary as the board of trustees adopts and regular interest.

d. "Beneficiary" means any person entitled to receive any benefit pursuant to the provisions of this act by reason of the death of a member or retirant.

e. "Board of trustees" or "board" means the board provided for in section 30 of this act.

f. "Child" means a deceased member's or retirant's unmarried child either (a) under the age of 18 or (b) of any age who, at the time of the member's or retirant's death, is disabled because of an intellectual disability or physical incapacity, is unable to do any substantial, gainful work because of the impairment and his impairment has lasted or can be expected to last

for a continuous period of not less than 12 months, as affirmed by the medical board.

g. "Creditable service" means service rendered for which credit is allowed on the basis of contributions made by the member or the State.

h. "Parent" means the parent of a member who was receiving at least one-half of his support from the member in the 12-month period immediately preceding the member's death or the accident which was the direct cause of the member's death. The dependency of such a parent will be considered terminated by marriage of the parent subsequent to the death of the member.

i. (1) "Final compensation" means the average compensation received by the member in the last 12 months of creditable service preceding his retirement or death. Such term includes the value of the member's maintenance allowance for this same period.

(2) In the case of a person who becomes a member of the retirement system on or after the effective date of P.L.2010, c.1, "final compensation" means the average annual compensation for service for which contributions are made during any three fiscal years of membership providing the largest possible benefit to the member or the member's beneficiary. Such term includes the value of the member's maintenance allowance for this same period.

j. (1) "Final salary" means the average salary received by the member in the last 12 months of creditable service preceding his retirement or death. Such term shall not include the value of the member's maintenance allowance.

(2) In the case of a person who becomes a member of the retirement system on or after the effective date of P.L.2010, c.1, "final salary" means the average annual salary for service for which contributions are made during any three fiscal years of membership providing the largest possible benefit to the member or the member's beneficiary. Such term shall not include the value of the member's maintenance allowance.

k. "Fiscal year" means any year commencing with July 1 and ending with June 30 next following.

l. "Medical board" means the board of physicians provided for in section 30 of this act.

m. "Member" means any full-time, commissioned officer, noncommissioned officer or trooper of the Division of State Police of the Department of Law and Public Safety of the State of New Jersey enrolled in the retirement system established by this act.

n. "Pension" means payment for life derived from contributions by the State.

o. "Pension reserve" means the present value of all payments to be made on account of any pension or benefit in lieu of any pension computed on the basis of such mortality tables recommended by the actuary as shall be adopted by the board of trustees and regular interest.

p. "Regular interest" means interest as determined by the State Treasurer, after consultation with the Directors of the Divisions of Investment and Pensions, the board of trustees and the actuary. It shall bear a reasonable relationship to the percentage rate of earnings on investments based on the market value of the assets but shall not exceed the assumed percentage rate of increase applied to salaries plus 3%, provided however that the board of trustees shall not set the average percentage rate of increase applied to salaries below 6%.

q. "Retirant" means any former member receiving a retirement allowance as provided by this act.

r. "Retirement allowance" means the pension plus the annuity.

s. "State Police Retirement System of New Jersey," herein also referred to as the "retirement system" or "system," is the corporate name of the arrangement for the payment of retirement allowances and of the benefits under the provisions of this act including the several funds placed under said system. By that name, all of its business shall be transacted, its funds invested, warrants for moneys drawn, and payments made and all of its cash and securities and other property held. All assets held in the name of the former "State Police Retirement and Benevolent Fund" shall be transferred to the retirement system established by this act.

t. "Surviving spouse" means the person to whom a member or a retirant was married, or a domestic partner as defined in section 3 of P.L.2003, c.246 (C.26:8A-3), on the date of the death of the member or retirant. The dependency of such a surviving spouse will be considered terminated by the marriage of, or establishment of a domestic partnership by, the surviving spouse subsequent to the member's or the retirant's death, except that in the event of the payment of accidental death benefits, pursuant to section 14 of P.L.1965, c.89 (C.53:5A-14), the dependency of such a surviving spouse or domestic partner will not be considered terminated by the marriage of, or establishment of a domestic partnership by, the surviving spouse subsequent to the member's death.

u. (1) "Compensation" for purposes of computing pension contributions means the base salary, for services as a member as defined in this act, which is in accordance with established salary policies of the State for all employees in the same position but shall not include individual salary adjustments which are granted primarily in anticipation of the member's re-

tirement or additional remuneration for performing temporary duties beyond the regular workday or shift.

(2) In the case of a person who becomes a member of the retirement system on or after the effective date of P.L.2010, c.1, "compensation" means the amount of base salary equivalent to the annual maximum wage contribution base for Social Security, pursuant to the Federal Insurance Contributions Act, for services as a member as defined in this act, which is in accordance with established salary policies of the State for all employees in the same position but shall not include individual salary adjustments which are granted primarily in anticipation of the member's retirement or additional remuneration for performing temporary duties beyond the regular workday or shift.

81. R.S.54:4-3.6 is amended to read as follows:

Tax exempt property.

54:4-3.6. The following property shall be exempt from taxation under this chapter: all buildings actually used for colleges, schools, academies or seminaries, provided that if any portion of such buildings are leased to profit-making organizations or otherwise used for purposes which are not themselves exempt from taxation, said portion shall be subject to taxation and the remaining portion only shall be exempt; all buildings actually used for historical societies, associations or exhibitions, when owned by the State, county or any political subdivision thereof or when located on land owned by an educational institution which derives its primary support from State revenue; all buildings actually and exclusively used for public libraries, asylum or schools for adults and children with intellectual disabilities; all buildings used exclusively by any association or corporation formed for the purpose and actually engaged in the work of preventing cruelty to animals; all buildings actually and exclusively used and owned by volunteer first-aid squads, which squads are or shall be incorporated as associations not for pecuniary profit; all buildings actually used in the work of associations and corporations organized exclusively for the moral and mental improvement of men, women and children, provided that if any portion of a building used for that purpose is leased to profit-making organizations or is otherwise used for purposes which are not themselves exempt from taxation, that portion shall be subject to taxation and the remaining portion only shall be exempt; all buildings actually used in the work of associations and corporations organized exclusively for religious purposes, including religious worship, or charitable purposes, provided that if any portion of a building used for that purpose is leased to a profit-making organization or is

otherwise used for purposes which are not themselves exempt from taxation, that portion shall be subject to taxation and the remaining portion shall be exempt from taxation, and provided further that if any portion of a building is used for a different exempt use by an exempt entity, that portion shall also be exempt from taxation; all buildings actually used in the work of associations and corporations organized exclusively for hospital purposes, provided that if any portion of a building used for hospital purposes is leased to profit-making organizations or otherwise used for purposes which are not themselves exempt from taxation, that portion shall be subject to taxation and the remaining portion only shall be exempt; all buildings owned or held by an association or corporation created for the purpose of holding the title to such buildings as are actually and exclusively used in the work of two or more associations or corporations organized exclusively for the moral and mental improvement of men, women and children; all buildings owned by a corporation created under or otherwise subject to the provisions of Title 15 of the Revised Statutes or Title 15A of the New Jersey Statutes and actually and exclusively used in the work of one or more associations or corporations organized exclusively for charitable or religious purposes, which associations or corporations may or may not pay rent for the use of the premises or the portions of the premises used by them; the buildings, not exceeding two, actually occupied as a parsonage by the officiating clergymen of any religious corporation of this State, together with the accessory buildings located on the same premises; the land whereon any of the buildings hereinbefore mentioned are erected, and which may be necessary for the fair enjoyment thereof, and which is devoted to the purposes above mentioned and to no other purpose and does not exceed five acres in extent; the furniture and personal property in said buildings if used in and devoted to the purposes above mentioned; all property owned and used by any nonprofit corporation in connection with its curriculum, work, care, treatment and study of men, women, or children with intellectual disabilities shall also be exempt from taxation, provided that such corporation conducts and maintains research or professional training facilities for the care and training of men, women, or children with intellectual disabilities; provided, in case of all the foregoing, the buildings, or the lands on which they stand, or the associations, corporations or institutions using and occupying them as aforesaid, are not conducted for profit, except that the exemption of the buildings and lands used for charitable, benevolent or religious purposes shall extend to cases where the charitable, benevolent or religious work therein carried on is supported partly by fees and charges received from or on behalf of beneficiaries using or occupying the build-

ings; provided the building is wholly controlled by and the entire income therefrom is used for said charitable, benevolent or religious purposes. The foregoing exemption shall apply only where the association, corporation or institution claiming the exemption owns the property in question and is incorporated or organized under the laws of this State and authorized to carry out the purposes on account of which the exemption is claimed or where an educational institution, as provided herein, has leased said property to a historical society or association or to a corporation organized for such purposes and created under or otherwise subject to the provisions of Title 15 of the Revised Statutes or Title 15A of the New Jersey Statutes.

As used in this section "hospital purposes" includes health care facilities for the elderly, such as nursing homes; residential health care facilities; assisted living residences; facilities with a Class C license pursuant to P.L.1979, c.496 (C.55:13B-1 et al.), the "Rooming and Boarding House Act of 1979"; similar facilities that provide medical, nursing or personal care services to their residents; and that portion of the central administrative or service facility of a continuing care retirement community that is reasonably allocable as a health care facility for the elderly.

82. R.S.54:5-84 is amended to read as follows:

Infants and persons with an intellectual disability or in need of a guardian.

54:5-84. If a delinquent owner or lienor shall be, at the time of the expiration of the time limited for the redemption of the real estate in which he is interested, an infant under the age of twenty-one years, or a person with an intellectual disability, or who has been judicially adjudged a person in need of a guardian, the right to redeem shall not be barred by service of notice as provided in this article so long as such impediment shall continue, but shall be barred only by an action to foreclose brought in the Superior Court.

C.30:6D-32.5 Construction of act.

83. a. Nothing in this act shall be construed as intended to result in a reduction of federal funds that may be available to the State.

b. Nothing in this act shall be construed to alter or otherwise affect the current or future protections, funding, eligibility, services, rights, or responsibilities of any person under any provision or program, benefit, or service whose terminology is revised pursuant to this act. No change in terminology made pursuant to this act shall be construed as causing or intending any change in any definitions or meanings of any provision so changed.

c. Whenever the terms “mentally retarded,” “mental retardation,” “idiot,” and “feeble-minded” occur or any reference is made thereto in any

law, regulation, contract, or document, the same shall be deemed to mean or refer to "person who is intellectually disabled" or "person with an intellectual disability."

Repealer.

84. The following are repealed:
N.J.S.2A:41-1;
P.L.1955, c.208 (C.30:4-177.20 et seq.);
R.S.30:11-1 through 30:11-4;
P.L.1947, c.340 (C.30:11-3.1 and C.30:11-6 through 30:11-9); and
P.L.1964, c.148 (C.30:11-1.1 et seq.).

85. This act shall take effect on the 90th day following enactment.

Approved August 16, 2010.

CHAPTER 51

AN ACT establishing the Fort Monmouth Economic Revitalization Authority, supplementing Title 52 of the Revised Statutes and repealing parts of the statutory law.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

C.52:27I-18 Short title.

1. This act shall be known and may be cited as the "Fort Monmouth Economic Revitalization Authority Act."

C.52:27I-19 Findings, declarations relative to Fort Monmouth economic revitalization.

2. The Legislature finds and declares that:

a. The closure and revitalization of Fort Monmouth is a matter of great concern for the host municipalities of Eatontown, Oceanport, and Tinton Falls; for Monmouth County; and for the State of New Jersey.

b. The economies, environment, and quality of life of the host municipalities, Monmouth County, and the State will benefit from the efficient, coordinated, and comprehensive redevelopment and revitalization of Fort Monmouth. The Fort Monmouth Economic Revitalization Planning Authority was established pursuant to P.L.2006, c.16 (C.52:27I-1 et seq.) to

plan for the comprehensive conversion and revitalization of Fort Monmouth, so as to encourage enlightened land use and to create employment and other business opportunities for the benefit of the host municipalities, of that county and the entire State. On September 4, 2008, the Fort Monmouth Economic Revitalization Planning Authority submitted a comprehensive conversion and revitalization plan for Fort Monmouth, known as the "Fort Monmouth Reuse and Redevelopment Plan," and a homeless assistance submission to the United States Department of Defense and the United States Department of Housing and Urban Development, as required under the applicable federal Base Closure and Realignment law and regulations. The Fort Monmouth Reuse and Redevelopment Plan is the result of an extensive, coordinated, and collaborative process conducted by the Fort Monmouth Economic Revitalization Planning Authority, and reflects input from the host municipalities, Monmouth County, State departments and agencies and the general public as to the future of Fort Monmouth.

c. Upon acceptance by the United States Department of Defense and the United States Department of Housing and Urban Development as required under applicable federal Base Closure and Realignment law and regulations, the Fort Monmouth Reuse and Redevelopment Plan will constitute the plan for the redevelopment and revitalization of Fort Monmouth to be implemented pursuant to and in accordance with the provisions of this act.

d. A coordinated and comprehensive redevelopment and revitalization of Fort Monmouth will be facilitated by establishing and empowering a new authority, to be known as the "Fort Monmouth Economic Revitalization Authority," to implement the Fort Monmouth Reuse and Redevelopment Plan, including the adoption of any modifications or amendments to the Fort Monmouth Reuse and Redevelopment Plan and the adoption of development and design guidelines and land use regulations in furtherance thereof, as provided in this act.

e. The New Jersey Economic Development Authority (EDA) has substantial and significant experience with partnering with local communities and leveraging public-private partnerships. The EDA manages large scale, redevelopment projects, utilizes a system of internal controls and procedures to ensure the integrity of redevelopment activities, and maintains a staff with a wide range of experience in redevelopment projects, real estate, finance, and job creation. To this end, an office is to be created within the EDA staffed by such EDA employees on a part or full time basis as the EDA determines necessary to carry out the functions of the office.

f. Furthermore, because of the experience and expertise of the EDA in redevelopment projects, it is appropriate to authorize the authority estab-

lished by this act to enter into a designated redevelopment agreement with the EDA for the redevelopment of Fort Monmouth. The activities of the EDA as a designated redeveloper pursuant to the designated redevelopment agreement are to be accounted for, managed and supervised separately and apart from the activities of the office established by this act, notwithstanding the possible sharing of staff between the EDA's activities as a designated redeveloper and EDA's activities in staffing the office.

g. The host municipalities have an ongoing interest in the implementation of the plan, and the planning boards of the host municipalities have knowledge, expertise, and experience as well as procedures in place for reviewing and approving proposed subdivisions and site plans as provided in this act.

C.52:21-20 Definitions relative to Fort Monmouth economic revitalization.

3. The following words or terms as used in this act shall have the following meaning unless a different meaning clearly appears from the context:

"Act" means the "Fort Monmouth Economic Revitalization Authority Act."

"Authority" means the Fort Monmouth Economic Revitalization Authority established by section 4 of this act.

"Conditional use" means a use permitted within the project area only upon a showing that such use in a specified location will comply with the conditions and standards for the location or operation of such use as contained in the development and design guidelines or land use regulations adopted by the authority, and upon the issuance of an authorization therefor by the planning board.

"County" means Monmouth County.

"County planning board" means the Monmouth County planning board.

"Density" means the permitted number of dwelling units per gross area of land to be developed.

"Designated redevelopment agreement" means the redevelopment agreement to be entered into by and between the authority and the EDA as provided in this act for properties within the project area acquired by the authority.

"Development and design guidelines" means the development and design guidelines to be adopted by the authority pursuant to this act, as revised or amended as provided in this act, which when adopted shall apply to all applications for subdivision or site plan approval within the project

area and shall supersede the zoning ordinances and land use regulations of the host municipalities and the county with respect to the project area.

"EDA" means the New Jersey Economic Development Authority, established pursuant to section 4 of P.L.1974, c.80 (C.34:1B-4).

"Federal government" means the United States of America, and any officer, department, board, commission, bureau, division, corporation, agency or instrumentality thereof, including, but not limited to, the United States Department of Defense and the United States Department of Housing and Urban Development.

"Floor area ratio" means the sum of the area of all floors of buildings or structures compared to the total area of the site.

"Fort Monmouth" means the federally owned or operated military installation located in the municipalities of Eatontown, Oceanport, and Tinton Falls in the county that, as of May 13, 2005, was functioning, but was scheduled for closure by recommendation of the federal Base Realignment and Closure Commission issued on that date, including any facilities, real property and improvements, infrastructure and appurtenances and personal property.

"Homeless assistance submission" means the homeless assistance submission submitted to the United States Department of Defense and the United States Department of Housing and Urban Development on September 4, 2008 required under the Defense Base Closure and Realignment Act of 1990, Pub.L.101-510 (10 U.S.C. s.2687).

"Host municipality" means the municipality of Eatontown, Oceanport or Tinton Falls.

"Land use regulations" means the regulations to be adopted by the authority pursuant to this act, revised or amended as provided in this act, which when adopted shall apply to all applications for subdivision or site plan approval within the project area and shall supersede the zoning ordinances and land use regulations of the host municipalities and the county with respect to the project area.

"Master plan" or "plan" or "revitalization plan" means the comprehensive conversion and revitalization plan and the homeless assistance submission prepared and adopted by the predecessor authority and entitled "Fort Monmouth Reuse and Redevelopment Plan" submitted to the United States Department of Defense and the United States Department of Housing and Urban Development on September 4, 2008, pursuant to section 14 of P.L.2006, c.16 (C.52:27I-14), as accepted by the federal government, and as may be amended, revised, or modified as provided in this act.

"Minor subdivision" means "minor subdivision" as defined in section 3.2 of P.L.1975, c.291 (C.40:55D-5).

"Nonconforming use" means a legal or pre-existing use or activity which fails to conform to the development and design guidelines or land use regulations adopted by the authority.

"Planning board" means the planning board of a host municipality.

"Predecessor authority" means the Fort Monmouth Economic Revitalization Planning Authority established pursuant to section 4 of P.L.2006, c.16 (C.52:27I-4), repealed by this act.

"Project area" means that area encompassed by the metes and bounds of Fort Monmouth.

"Project parcel" means a portion of the project area that is the subject of a development or redevelopment project.

"Redevelopment" means clearance, replanning, development and redevelopment; the conservation and rehabilitation of any structure or improvement; the construction and provision for construction of residential, commercial, industrial, public or other structures or infrastructure; and the grant or dedication of spaces as may be appropriate or necessary in the interest of the general welfare for streets, utilities, parks, playgrounds, or other public purposes, including recreational and other facilities incidental or appurtenant thereto, in accordance with the approved Fort Monmouth Reuse and Redevelopment Plan submitted to the federal government, with the intent of supporting the economic revitalization of the region.

"Revitalization" means a comprehensive program of planning, conservation, rehabilitation, clearance, development and redevelopment, preservation, and historic restoration.

"Site Plan" means "site plan" as defined in section 3.4 of P.L.1975, c.291 (C.40:55D-7).

"Subdivision" means "subdivision" as defined in section 3.4 of P.L.1975, c.291 (C.40:55D-7).

"Variance" means permission to depart from the literal requirements of the master plan, the development and design guidelines adopted by the authority or the land use regulations adopted by the authority.

C.52:27I-21 Fort Monmouth Economic Revitalization Authority.

4. There is hereby established in, but not of, the Department of the Treasury a public body corporate and politic, with corporate succession, to be known as the Fort Monmouth Economic Revitalization Authority as the successor to the predecessor authority. The authority is hereby constituted as an instrumentality of the State exercising public and essential governmental functions to provide for the public safety, convenience, benefit, and welfare. The exercise by the authority of the powers conferred by this act

shall be deemed and held to be an essential governmental function of the State. For the purposes of complying with the provisions of Article V, Section IV, paragraph 1 of the New Jersey Constitution, the authority is allocated within the Department of the Treasury, but notwithstanding that allocation, the authority shall be independent of any supervision or control by the Department of the Treasury or any board or officer thereof, except as may be provided in this act.

C.52:27I-22 Powers, rights, assets, duties assumed by authority.

5. Effective and automatically upon the first meeting of the authority:

a. The authority shall assume all of the powers, rights, assets, and duties of the predecessor authority to the extent provided by this act, and such powers shall then and thereafter be vested in and shall be exercised by the authority.

b. The terms of office of the members of the predecessor authority shall terminate, the officers having custody of the funds of the predecessor authority shall deliver those funds into the custody of the person having charge of the financial affairs of the authority, the property and assets of the predecessor authority shall, without further act or deed, become the property and assets of the authority, and the predecessor authority shall cease to exist.

c. All debts, liabilities, obligations and contracts of the predecessor authority, except to the extent specifically provided or established to the contrary in this act, are imposed upon the authority, and all creditors of the predecessor authority and persons having claims against or contracts with the predecessor authority of any kind or character may enforce those debts, claims and contracts against the authority as successor to the predecessor authority in the same manner as they might have had against the predecessor authority, and the rights and remedies of those holders, creditors and persons having claims against or contracts with the predecessor authority shall not be limited or restricted in any manner by this act.

d. In continuing the functions, contracts, obligations and duties of the predecessor authority, the authority is authorized to act in its own name or in the name of the predecessor authority as may be convenient or advisable under the circumstances from time to time.

e. Any references to the predecessor authority in any other law or regulation shall be deemed to refer and apply to the authority.

f. All operations of the predecessor authority shall continue as operations of the authority until altered by the authority as may be permitted pursuant to this act.

g. The powers vested in the authority by this act shall be construed as being in addition to and not in diminution of the powers heretofore vested by law in the predecessor authority to the extent not otherwise altered or provided for in this act.

C.52:27I-23 Office established in the EDA.

6. a. There is hereby established in the EDA an office which shall be staffed by employees of the EDA which shall remain under the supervision and control of the EDA. The office shall be responsible for carrying out the policies set forth by the authority, in a collaborative manner with the host municipalities and the county. The office shall be administered by a director whose hiring shall be reviewed and approved by a subcommittee of the members of the authority to be appointed and convened at the direction of the chairperson of the authority for the purposes of this action.

b. The authority will rely solely on the office for all support services it requires to carry out its mission under this act, including, but not limited, to administrative, procurement, budgetary, clerical, and other similar types of services.

c. The authority and the EDA may enter into any agreements necessary to provide for the establishment, operation, and financial support of the office.

d. The costs of the office shall be paid for by the authority. The EDA shall on an annual basis submit to the authority a budget for review and approval by the authority for the anticipated costs of the office for the succeeding calendar year. If, during the course of the calendar year, it is necessary to amend the budget, the EDA shall submit an amendment or amendments to the authority for review and approval by the authority. All costs and expenses of the office shall be accounted for separately and apart from the costs and expenses of the EDA in its capacity as redeveloper pursuant to the designated redevelopment agreement. In the event the authority does not have adequate monies to fund the budget, the EDA may make a loan to the authority in the amount of the unfunded portion of the budget on terms and conditions acceptable to the EDA and the authority.

e. When it is necessary for the authority to engage the services of professional consultants, including registered architects, licensed professional engineers, planners, attorneys, accountants, or other professional consultants, the office shall assist the authority in the procurement process.

C.52:27I-24 Purpose of authority.

7. It shall be the purpose of the authority to oversee, administer, and implement the plan as provided in this act, in a manner that will promote,

develop, encourage, and maintain employment, commerce, economic development, and the public welfare; to conserve the natural resources of the State; to provide housing, including housing to address identified needs related to homelessness; and to advance the general prosperity and economic welfare of the people in the host municipalities, the county, and the entire State by cooperating and acting in conjunction with other organizations, public and private, to promote and advance the economic use of the facilities located at Fort Monmouth.

C.52:27I-25 Members, appointment, terms.

8. a. The authority shall consist of 13 members to be appointed and qualified as follows:

(1) Three voting members appointed by the Governor with the advice and consent of the Senate, for staggered terms of five years, one of whom shall be a representative of the private sector with relevant business experience or background; one of whom shall be an individual who is knowledgeable in environmental issues, conservation, or land use issues; and one of whom shall have appropriate experience in workforce development and job training. Preference shall be given to professionals with a background in technology, finance, energy industry, or real estate. One of the members appointed under this paragraph shall be a resident of the county selected from a list of five candidates recommended by the Monmouth County Board of Chosen Freeholders and submitted to the Governor; the list of candidates for the initial selection of this member shall be so submitted within 45 days after the date of enactment of this act. In the event the Governor rejects all five candidates for the member to be selected upon the recommendation of the Monmouth County Board of Chosen Freeholders, the Monmouth County Board of Chosen Freeholders may submit an additional list of five different candidates within 30 days of the Governor's rejection of the prior list. If the Monmouth County Board of Chosen Freeholders does not submit a list of five candidates within either of the aforementioned time periods, within ten days after the expiration of such time period, the Governor shall inform the Monmouth County Board of Chosen Freeholders in writing that the Governor, at the Governor's discretion, will make such appointment. Not more than two of the members appointed by the Governor pursuant to this paragraph shall be members of the same political party, but the provisions of this paragraph regarding the selection of one such member from among candidates recommended by the Monmouth County Board of Chosen Freeholders shall not be construed to prohibit the appointment of a resident of the county for either or both of the memberships

under this paragraph that are not filled from among candidates so recommended;

(2) The Chairperson of the New Jersey Economic Development Authority, ex officio and voting;

(3) Another member of the Executive Branch appointed by the Governor to serve on the authority, ex officio and voting;

(4) One voting member, who shall be a member of the Monmouth County Board of Chosen Freeholders to be appointed by the Monmouth County Board of Chosen Freeholders;

(5) The mayors of Eatontown, Oceanport, and Tinton Falls, ex officio and voting;

(6) The Commissioner of Labor and Workforce Development, who shall serve as an ex officio, non-voting member;

(7) The Commissioner of Environmental Protection, who shall serve as an ex officio, non-voting member;

(8) The Commissioner of Community Affairs, who shall serve as an ex officio, non-voting member; and

(9) The Commissioner of Transportation, who shall serve as an ex officio, non-voting member.

Each member appointed by the Governor shall hold office for the term of that member's appointment and until a successor shall have been appointed and qualified. The member appointed by the Monmouth County Board of Chosen Freeholders shall hold office for the term of that member's service on the board. In the event that a member appointed by the Monmouth County Board of Chosen Freeholders ceases to serve on that board, that member shall no longer hold office on the authority and the board shall appoint a member of the board to serve as a new member of the authority. A member shall be eligible for reappointment. Any vacancy in the membership occurring other than by expiration of term shall be filled in the same manner as the original appointment but for the unexpired term only.

b. Each ex officio member of the authority and the member appointed by the Monmouth County Board of Chosen Freeholders may designate an employee of the member's department or office to represent the member at meetings of the authority. The designee may act on behalf of the member. The designation shall be in writing and shall be delivered to the authority and shall be effective until revoked or amended in writing to the authority.

c. Each member appointed by the Governor may be removed from office by the Governor for cause, after a public hearing, and may be suspended by the Governor pending the completion of that hearing. Each such member, before entering the duties of membership, shall take and subscribe

an oath to perform those duties faithfully, impartially, and justly to the best of the person's ability. A record of those oaths shall be filed in the office of the Secretary of State.

d. The Governor shall appoint the chairperson of the authority. The members of the authority shall annually elect a vice-chairperson from among their members. The chairperson shall appoint a secretary and treasurer. The powers of the authority shall be vested in the voting members thereof in office from time to time; five voting members of the authority shall constitute a quorum, and the affirmative vote of five voting members shall be necessary for any action taken by the authority, except as otherwise provided in subsection e. of this section, or unless the bylaws of the authority shall require a larger number. No vacancy in the membership of the authority shall impair the right of a quorum to exercise all the rights and perform all the duties of the authority.

e. The affirmative vote of seven members shall be required for the following actions taken by the authority:

(1) any action to adopt or revise the plan, as provided in section 18 of this act, or to adopt or revise the development and design guidelines or land use regulations adopted by the authority as provided in section 17 of this act; (2) any action to enter into a designated redevelopment agreement with the EDA as provided in subsection a. of section 16 of this act; (3) any action to adopt any amendment to the plan pursuant to paragraph (1) of subsection e. of section 17 of this act; (4) any action to approve any project undertaken by the EDA; (5) any action to acquire easements, rights of way, or fee title to properties pursuant to subsection g. of section 9 of this act; (6) in any year that the authority is anticipated to receive no funding from the federal government, any action to approve the budget of the office for that year or any amendment to the budget pursuant to subsection d. of section 6 of this act; and (7) consent to the designation of any portion of the project area as an area in need of redevelopment or any area in need of rehabilitation pursuant to the provisions of the "Local Redevelopment and Housing Law," P.L.1992, c.79 (C.40A:12A-1 et al.), as provided in subsection o. of section 9 of this act.

f. The members of the authority shall serve without compensation, but the authority may, within the limits of funds appropriated or otherwise made available for such purposes, reimburse its members for necessary expenses incurred in the discharge of their official duties.

g. (1) No member, officer, employee or agent of the authority or office shall have a personal interest, either directly or indirectly, in any project,

employment agreement or any contract, sale, purchase, lease, or transfer of real or personal property to which the authority or office is a party.

(2) The authority, as well as any business entity performing or seeking to perform a contract for the authority, shall be subject to the provisions of P.L.2005, c.51 (C.19:44A-20.13 et seq.).

(3) The members, officers, and employees of the authority shall be subject to the same financial disclosure requirements as the members, officers, and employees of State authorities subject to executive orders of the Governor with respect to financial disclosure.

h. The authority may be dissolved by act of the Legislature on condition that the authority has no debts or obligations outstanding or provision has been made for the payment, retirement, termination, or assumption of its debts and obligations. Upon dissolution of the authority, all property, funds, and assets thereof shall be vested in the State, unless the Legislature directs otherwise.

i. A true copy of the minutes of every meeting of the authority shall be forthwith delivered by and under the certification of the secretary thereof to the Governor. No action taken at such meeting by the authority shall have force or effect until 10 days, Saturdays, Sundays, and public holidays excepted, after the copy of the minutes shall have been so delivered, unless during such 10-day period the Governor shall approve the same, in which case such action shall become effective upon such approval. If, in that 10-day period, the Governor returns such copy of the minutes with veto of any action taken by the authority or any member thereof at such meeting, such action shall be void.

j. Any and all proceedings, hearings or meetings of the authority shall be conducted in conformance with the "Senator Byron M. Baer Open Public Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.).

k. Records of minutes, accounts, bills, vouchers, contracts or other papers connected with or used or filed with the authority or with any officer or employee acting for or in its behalf are declared to be public records, and shall be open to public inspection in accordance with P.L.1963, c.73 (C.47:1A-1 et seq.).

C.52:27I-26 Powers of authority.

9. The authority shall have the following powers:

a. To enter into a designated redevelopment agreement as set forth in subsection a. of section 16 of this act;

b. As designated and empowered as the "local redevelopment authority" for Fort Monmouth for all purposes of the Defense Base Closure and

Realignment Act of 1990, Pub.L.101-510 (10 U.S.C. s.2687), and, in that capacity, to enter into agreements with the federal government, State departments, agencies or authorities, the county, the host municipalities, or private parties;

c. To adopt development and design guidelines and land use regulations consistent with and in furtherance of the plan; and to adopt, revise, adjust, and implement (1) any aspect of the plan or the development and design guidelines and land use regulations adopted in furtherance thereof, or to grant variances therefrom; (2) the economic revitalization study prepared pursuant to section 16 of P.L.2006, c.16 (C.52:27I-16); and (3) if designated as the designated agency pursuant to section 2 of P.L.2008, c.28 (C.52:27I-8.2), any aspect of the homeless assistance submission required under the Defense Base Closure and Realignment Act of 1990, Pub.L.101-510 (10 U.S.C. s.2687);

d. To undertake redevelopment projects pursuant to the plan;

e. To acquire or contract to acquire, and to dispose of the project area or any portion, tract or subdivision of the project area, or any utility system or infrastructure servicing the project area;

f. To lease as lessee, lease as lessor whether as a titleholder or not, own, rent, use, and take and hold title to, and to convey title of, and collect rent from, real property and personal property or any interest therein, in the exercise of its powers and the performance of its duties under this act;

g. To acquire, including by condemnation where necessary pursuant to the provisions of the "Eminent Domain Act of 1971," P.L.1971, c.361 (C.20:3-1 et seq.), easements, rights of way, or fee title to properties within the project area where necessary in connection with the provision of utilities, streets, roads or other infrastructure required for implementation of the plan;

h. To arrange for the clearance of any parcel owned or acquired, and for the installation, construction or reconstruction of streets, facilities, utilities, and site improvements essential to the preparation of sites for use in accordance with the plan;

i. To contract for the provision of professional services, including, but not limited to, the preparation of plans for the carrying out of redevelopment projects by registered architects, licensed professional engineers or planners, or other consultants;

j. To issue requests for proposals or requests for qualifications; to arrange or contract with other public agencies or public or private redevelopers, including but not limited to nonprofit entities, for the planning, replanning, construction, or undertaking of any project or redevelopment work, or any part thereof; to negotiate and collect revenue from a redevel-

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oper to defray the costs of the authority, and to secure payment of such revenue; as part of any such arrangement or contract, to negotiate financial or in-kind contributions from a redeveloper to the authority or to the host municipalities to offset or mitigate impacts of the project; as part of any such arrangement or contract, to require the posting of performance guarantees in connection with any redevelopment project; as part of any such arrangement or contract, to facilitate the extension of credit, or making of loans, by the EDA, by other public agencies or funding sources, or by private entities to redevelopers to finance any project or redevelopment work, or upon a finding that the project or redevelopment work would not be undertaken but for the provision of financial assistance, or would not be undertaken in its intended scope without the provision of financial assistance, to facilitate as part of an arrangement or contract for capital grants to redevelopers; and to arrange or contract with public agencies or redevelopers for the opening, grading or closing of streets, roads, roadways, alleys, or other places or for the furnishing of facilities or for the acquisition by such agency of property options or property rights or for the furnishing of property or services in connection with the project area;

k. To participate in, conduct, or contract for the performance of environmental assessment or remediation activities or restoration arising out of or relating to environmental conditions within the project area, including but not limited to insurance or bonds related to such activities;

l. To enter upon any building or property in the project area in order to conduct investigations or make surveys, sounding or test borings necessary to carry out the purposes of the plan;

m. To arrange or contract with the EDA or other public agencies to facilitate or provide relocation assistance, of the types and in the amounts provided for businesses in the "Relocation Assistance Law of 1967," P.L.1967, c.79 (C.52:31B-1 et seq.) and the "Relocation Assistance Act," P.L.1971, c.362 (C.20:4-1 et seq.), to businesses operating within the project area who are displaced as a result of the closure and who request such assistance within a period to be determined by the authority;

n. To make, consistent with the plan: (1) plans for carrying out a program of voluntary repair and rehabilitation of buildings and improvements; and (2) plans for the enforcement of laws, codes, and regulations relating to the use and occupancy of buildings and improvements, and to the compulsory repair, rehabilitation, demolition, or removal of buildings and improvements;

o. Notwithstanding any other law to the contrary, to consent to a request by a host municipality for, or request that the host municipality con-

sider, the designation of portions of the project area as being in need of redevelopment or rehabilitation in accordance with the provisions of the "Local Redevelopment and Housing Law," P.L.1992, c.79 (C.40A:12A-1 et al.);

p. To publish and disseminate information concerning the plan or any project within the project area;

q. To adopt and from time to time amend and repeal bylaws for the regulation of its affairs and the conduct of its business;

r. To adopt and use an official seal and alter it at its pleasure;

s. To maintain an office at a place or places within the State as it may designate;

t. To sue and be sued in its own name;

u. To provide that any revenues collected shall be available to the authority for use in furtherance of any of the purposes of this act;

v. Pursuant to an adopted cash management plan, to invest any funds held in reserve or sinking funds, or any funds not required for immediate disbursement, in property or securities in which governmental units may legally invest funds subject to their control;

w. To enter into mortgages as mortgagee;

x. To apply for, receive, and accept from any federal, State, or other public or private source, grants or loans for, or in aid of, the authority's authorized purposes;

y. To consent to the modification of any contract, mortgage, or other instrument entered into by it or on its behalf;

z. To pay or compromise any claim arising on, or because of any agreement, mortgage, or instrument;

aa. To acquire or contract to acquire from any person, firm, or corporation, public or private, by contribution, gift, grant, bequest, devise, purchase, or otherwise, real or personal property or any interest therein, including such property as it may deem necessary or proper, although temporarily not required for such purposes, in the project area or in any area outside the project area designated by the authority as necessary for carrying out the relocation of the businesses displaced from the project area as a result of the closure of Fort Monmouth or other acquisitions needed to carry out the master plan;

bb. To subordinate, waive, sell, assign or release any right, title, claim, lien or demand however acquired, including any equity or right of redemption, foreclosure, sell or assign any mortgage held by it, or any interest in real or personal property; and to purchase at any sale, upon such terms and at such prices as it determines to be reasonable, and take title to the prop-

erty, real, personal, or mixed, so acquired and similarly sell, exchange, assign, convey or otherwise dispose of any property;

cc. To complete, administer, operate, obtain, and pay for insurance on, and maintain, renovate, repair, modernize, lease or otherwise deal with any property;

dd. To retain attorneys, planners, engineers, architects, managers, financial experts, and other types of consultants as may be necessary;

ee. To arrange or contract with any public agency, to the extent that it is within the scope of that agency's functions, to cause the services customarily provided by that agency to be rendered for the benefit of the occupants of the project area, and have that agency provide and maintain parks, recreation centers, schools, sewerage, transportation, water and other municipal facilities adjacent to or in connection with the project area;

ff. To conduct examinations and investigations, hear testimony and take proof, under oath at public or private hearings of any material matter, compel witnesses and the production of books and papers and issue commissions for the examination of witnesses who are out of State, unable to attend, or excused from attendance; and to authorize a committee designated by it consisting of one or more members, or counsel, or any officer or employee to conduct the examination or investigation, in which case it may authorize in its name the committee, counsel, officer or employee to administer oaths, take affidavits and issue subpoenas or commissions;

gg. To make and enter into all contracts and agreements necessary or incidental to the performance of the duties authorized in this act;

hh. After thorough evaluation and investigation, to bring an action on behalf of a tenant within the project area to collect or enforce any violation of subsection g. or h. of section 11 of the "Law Against Discrimination," P.L.1945, c.169 (C.10:5-12);

ii. To designate members or employees, who shall be knowledgeable of federal and State discrimination laws, and who shall be available during all normal business hours, to evaluate a complaint made by a tenant within the project area pursuant to section 11 of the "Law Against Discrimination," P.L.1945, c.169 (C.10:5-12);

jj. To borrow monies from the EDA to fund an approved budget on terms and conditions acceptable to the EDA;

kk. To adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations necessary to implement this act; and

ll. To do all things necessary or convenient to carry out its purposes and exercise the powers given and granted in this act.

C.52:27I-27 Appointment of committees.

10. The authority shall appoint an historical preservation advisory committee and an environmental advisory committee to assist in its activities in such areas, and any other advisory committee as it deems appropriate. The membership of the committees shall be determined by the authority. The historical preservation committee and the environmental committee shall for all intents and purposes be the exclusive "historic preservation commission," as established pursuant to section 21 of P.L.1985, c.516 (C.40:55D-107), and the "environmental commission," as established pursuant to P.L.1968, c.245 (C.40:56A-1 et seq.), for all land use matters and approvals within the project area.

C.52:27I-28 Cooperation with State departments, agencies.

11. All State departments and agencies, to the extent not inconsistent with law and within budget constraints, shall cooperate with the authority and respond to requests for such information and assistance as are necessary to accomplish the purposes of this act.

To the extent not inconsistent with law and within budget constraints, and to the extent necessary to ensure a coordinated and comprehensive redevelopment and revitalization of Fort Monmouth, upon the recommendation of the EDA that a project be prioritized, a State department, agency or authority shall supersede existing priority setting or ranking systems to place applications that would benefit that project within the project area in the highest priority or ranking category for award or approval of grants, benefits, loans, projects, including highways, roads, sewer, or other infrastructure projects, or other considerations that would benefit the project area. Funding from State sources shall augment, and not replace, any funding from the federal government or as authorized by sections 22 through 24 of this act.

C.52:27I-29 Property exempt from levy, sale.

12. All property of the authority or EDA shall be exempt from levy and sale by virtue of an execution and no execution or other judicial process shall issue against the same nor shall any judgment against the authority or EDA be a charge or lien upon its property; provided, that nothing herein contained shall apply to or limit the rights of the holder of any bonds to pursue any remedy for the enforcement of any pledge or lien given by the authority or EDA on or with respect to any project or any revenues or other moneys.

C.52:27I-30 Taxes, assessments, payment not required; payments in lieu of taxes.

13. a. The authority and the EDA shall not be required to pay any taxes or assessments upon or in respect of a project or any property or moneys of the authority and the EDA, and the authority and EDA, their projects, property, and moneys, their transfer and the income therefrom, including any profit made on the sale thereof, shall at all times be free from taxation of every kind by the State except for transfer, inheritance, and estate taxes and by any political subdivision of the State; provided, that any person occupying a project whether as lessee, vendee or otherwise shall, as long as title thereto shall remain in the authority or EDA, pay to the political subdivision in which such project is located a payment in lieu of taxes which shall equal the taxes on real and personal property, whether for municipal, county, fire, or school purposes, as applicable, including water and sewer service charges or assessments, which such person would have been required to pay had it been the owner of such property during the period for which such payment is made and neither the authority nor the EDA nor their projects, property, money or bonds and notes shall be obligated, liable or subject to lien of any kind for the enforcement, collection or payment thereof. If and to the extent provided by contract, the authority or EDA may agree to cooperate with such person occupying a project, in connection with any administrative or judicial proceedings for determining the validity or amount of such payments and may agree to appoint or designate and reserve the right in and for such person to take all action which the authority may lawfully take in respect of such payments and all matters relating thereto, provided such person shall bear and pay all costs and expenses of the authority thereby incurred at the request of such person or by reason of any such action taken by such person in behalf of the authority. If such person occupying a project has paid the amounts in lieu of taxes required by this section to be paid, such person shall not be required to pay any such taxes as to which a payment in lieu thereof has been made to the State or to any political subdivision, any other statute to the contrary notwithstanding.

b. Except as provided in subsection a. of this section, a host municipality is authorized to assess and collect taxes on real and personal property within the project area as provided by law for municipal, county, fire, or school purposes, as applicable.

C.52:27I-31 Prevailing wage rate.

14. Each worker employed on any project to which the authority is a party, shall be paid not less than the prevailing wage rate for the worker's

craft or trade, as determined by the Commissioner of Labor and Workforce Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.).

C.52:27I-32 Awarding of purchases, contracts, agreements.

15. a. All purchases, contracts, or agreements made pursuant to this act shall be made or awarded directly by the authority, except as otherwise provided in this act, only after public advertisement for bids therefor in the manner provided by the authority and notwithstanding the provisions of any other laws to the contrary.

b. Any purchase, contract, or agreement may be made, negotiated, or awarded by the authority without public bid or advertising under the following circumstances:

(1) When the aggregate amount involved does not exceed the amount set forth in, or the amount calculated by the Governor pursuant to, section 2 of P.L.1954, c.48 (C.52:34-7);

(2) To acquire subject matter which is described in section 4 of P.L.1954, c.48 (C.52:34-9);

(3) To make a purchase or award or make a contract or agreement under the circumstances described in section 5 of P.L.1954, c.48 (C.52:34-10);

(4) When the contract to be entered into is for the furnishing or performing of services of a professional or technical nature, including legal services, provided that the contract shall be made or awarded directly by the authority;

(5) When the authority has advertised for bids and has received no bids in response to its advertisement, or received no responsive bids. Any purchase, contract, or agreement may then be negotiated and may be awarded to any contractor or supplier determined to be responsible, as "responsible" is defined in section 2 of P.L.1971, c.198 (C.40A:11-2), provided that the terms, conditions, restrictions, and specifications set forth in the negotiated contract or agreement are not substantially different from those which were the subject of competitive bidding;

(6) When a purchase is to be made through or by the Director of the Division of Purchase and Property pursuant to section 1 of P.L.1959, c.40 (C.52:27B-56.1), or through a contract made by any of the following: the New Jersey Sports and Exposition Authority established under section 4 of P.L.1971, c.137 (C.5:10-4); the New Jersey Meadowlands Commission established under section 5 of P.L.1968, c.404 (C.13:17-5); the New Jersey Turnpike Authority established under section 3 of P.L.1948, c.454 (C.27:23-3); the New Jersey Water Supply Authority established under section 4 of P.L.1981, c.293 (C.58:1B-4); the Port Authority of New York and

New Jersey established under R.S.32:1-4; the Delaware River Port Authority established under R.S.32:3-2; or the Higher Education Student Assistance Authority established under N.J.S.18A:71A-3.

C.52:27I-33 Designated redeveloper.

16. a. Upon the acceptance by the federal government of the revitalization plan adopted by the predecessor authority pursuant to section 14 of P.L.2006, c.16 (C.52:27I-14), the EDA is hereby designated as a designated redeveloper for any property acquired by or conveyed to the authority. The authority and EDA shall enter into a designated redevelopment agreement detailing the terms and conditions of the designated redeveloper relationship, including, but not limited to, the tasks and scope of powers and authorities delegated to the EDA as a designated redeveloper, which may include the power and authority to perform all acts and do all things that the authority is empowered to do pursuant to this act, except for the powers enumerated in subsections b., c., o., q., r., s., t., ff., hh., ii., jj., kk., and ll. of section 9 of this act and the ability to adopt or amend the plan or the development and design guidelines and land use regulations adopted by the authority as provided in this act. In addition to such delegated power and authority, in order to carry out and effectuate the purposes of this act and the terms of the plan, the designated redeveloper may do and perform any acts and things authorized by the "New Jersey Economic Development Authority Act," P.L.1974, c.80 (C.34:1B-1 et seq.) necessary or convenient to carry out the purposes of this act.

b. No municipality shall modify or change the drawings, plans, or specifications for the construction, reconstruction, rehabilitation, alteration, or improvement of any project of the authority, or of the EDA, or the construction, plumbing, heating, lighting, or other mechanical branch of work necessary to complete the work in question, or require that any person, firm or corporation employed on any such work shall perform the work in any other or different manner than that provided by the drawings, plans, and specifications, or require that any person, firm or corporation obtain any other or additional authority, approval, permit, or certificate from the municipality in relation to the work being done, and the doing of the work by any person, firm, or corporation in accordance with the terms of the drawings, plans, specifications, or contracts shall not subject the person, firm, or corporation to any liability or penalty, civil or criminal, other than as may be stated in the contracts or incidental to the proper enforcement thereof; nor shall any municipality require the authority, the EDA, or any person, firm, partnership or corporation which leases or purchases the project for

lease or purchase to a State agency, to obtain any other or additional authority, approval, permit, certificate, or certificate of occupancy from the municipality as a condition of owning, using, maintaining, operating, or occupying any project acquired, constructed, reconstructed, rehabilitated, altered, or improved by the authority or by the EDA. Notwithstanding the provisions of subsections b. and d. of section 17 of this act, municipal site plan approval and municipal subdivision approval shall not be required for any project undertaken by the authority or the EDA, but a project undertaken by the EDA shall require the affirmative vote of seven members of the authority. The foregoing provisions shall not preclude any municipality from exercising the right of inspection for the purpose of requiring compliance by any project with local requirements for operation and maintenance affecting the health, safety, and welfare of the occupants thereof, provided that the compliance does not require changes, modifications or additions to the original construction of the project.

C.52:27I-34 Development and design guidelines, land use regulations; variances.

17. a. The authority shall propose and adopt development and design guidelines and land use regulations consistent with and in furtherance of the plan. Provisions may be made by the authority for the waiver, according to definite criteria, of strict compliance with the standards promulgated, where necessary to alleviate hardship. The plan and the development and design guidelines and land use regulations adopted by the authority shall supersede the master plans, the zoning and land use ordinances and regulations, and the zoning maps of the host municipalities adopted pursuant to the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.) insofar as the same may pertain to the project area, except with respect to the procedures to be followed for submitting and processing applications for subdivision or site plan approvals.

b. Applications for subdivision approval, site plan approval, and redevelopment within the project area shall utilize the development and design guidelines and land use regulations adopted by the authority, and shall be submitted to the planning board of the host municipality in which the project parcel is located for review and approval, and where required by law to the county planning board. The procedures for the approval of subdivisions and site plans within the project area shall be the procedures adopted by such host municipality pursuant to the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.) (including, but not limited to, notice provisions and the payment of application fees and the posting of escrow deposits, if any). The authority shall by regulation provide for mandatory

conceptual review by or on behalf of the authority; provided, however, that unless accompanied by a request for a variance to be granted by the authority pursuant to subsection e. of this section, any such mandatory conceptual review shall be completed within 45 days of the authority's receipt of the application, or within such later time period if agreed to by the applicant.

c. Whenever an application pursuant to subsection b. of this section is filed with a planning board, a copy of the application shall be submitted simultaneously to the authority, and notice of all public hearings in connection therewith shall be provided to the authority. The authority shall be deemed an interested party entitled to notice of all applications for properties within the project area or within 200 feet of the project area's boundaries, irrespective of whether the authority owns the portion of the project area within 200 feet.

d. In connection with subdivision and site plan approval, the planning boards shall have the authority to grant variances from the requirements of the development and design guidelines and land use regulations adopted by the authority to the extent such variances are permitted pursuant to subsection c. of section 57 of P.L.1975, c.291 (C.40:55D-70).

e. (1) The provisions of subsection d. of section 57 of P.L.1975, c.291 (C.40:55D-70) notwithstanding and except as provided in paragraph (2) of this subsection, the authority shall have sole and exclusive jurisdiction to grant for special reasons shown, a variance from the requirements of the master plan, development and design guidelines or land use regulations adopted by the authority to permit: (a) a use or principal structure in a district restricted against such use or principal structure, (b) a continuation or an expansion of a nonconforming use, (c) deviation from a specification or standard pursuant to land use regulations adopted by the authority pertaining solely to a conditional use, (d) an increase in the permitted floor area ratio as established by the land use regulations adopted by the authority, (e) an increase in the permitted density as established by the land use regulations adopted by the authority or (f) a height of a principal structure which exceeds by 10 feet or 10 percent the maximum height permitted in the district for a principal structure. Such variances shall not be granted unless the applicant demonstrates to the satisfaction of the authority that special reasons exist for the granting of such variance, that the granting of the requested variance will not substantially impair the intent and purpose of the plan, and that the variance can be granted without substantial detriment to the public good. Application for such a variance shall be submitted together with or prior to an application for mandatory conceptual review pursuant to subsection b. of this section, and the authority shall approve or

deny the application within 120 days of a complete submission unless the applicant agrees to extend the time. In lieu of granting a variance, the authority in its discretion may require the adoption of a plan amendment.

(2) Variances granted pursuant to subparagraphs (a) through (f) of paragraph (1) of this subsection shall require the affirmative vote of seven members of the authority, except that variances granted pursuant to subparagraph (e) shall be heard and decided by the zoning boards of the host municipalities. If the zoning board of the host municipality hearing such variance request does not vote in favor of the variance request, the authority shall not be permitted to grant such variance.

f. Notwithstanding any other provision of this act or law to the contrary, the host municipalities shall not designate the project area or any portion thereof as an area in need of redevelopment or an area in need of rehabilitation, or adopt a redevelopment plan for any property within the project area pursuant to the "Local Redevelopment and Housing Law," P.L.1992, c.79 (C.40A:12A-1 et al.) without the consent of the authority.

C.52:27I-35 Adoption of amendment to plan.

18. Prior to the adoption of any amendment to the plan, the authority shall transmit a copy of the proposed plan amendment to the governing body of each host municipality. Within 45 days after referral, each governing body may transmit to the authority a report containing its recommendation concerning the proposed plan amendment. The authority, when considering the adoption of the plan amendment, and in taking into account a decision by a zoning board of an affected host municipality as to whether a request for a variance to increase the permitted density is granted, as provided in subsection e. of section 17 of this act, shall review all reports received from the host municipalities and may accept or not accept any recommendations of the host municipalities; provided, however, that the authority shall record in its minutes its reasons for not accepting any such recommendations.

C.52:27I-36 Procedure relative to changing location of public highway, public utility facility.

19. a. If the authority or the EDA, as a designated redeveloper, shall find it necessary in connection with the undertaking of any of its projects to change the location of any portion of any public highway, or road, it may contract with any government agency, or public or private corporation which may have jurisdiction over the public highway or road to cause the public highway or road to be constructed at such location as the authority or the EDA, as a designated redeveloper, shall deem most favorable. The cost of

the reconstruction and any damage incurred in changing the location of the highway shall be ascertained and paid by the authority or the EDA, as applicable, as a part of the cost of the project. Any public highway affected by the construction of any project may be vacated or relocated by the authority or the EDA, as a designated redeveloper, in the manner now provided by law for the vacation or relocation of public roads, and any damages awarded on account thereof shall be paid by the authority or the EDA, as applicable, as a part of the cost of the project. In all undertakings authorized by this subsection, the authority or the EDA, as a designated redeveloper, shall consult and obtain the approval of the Commissioner of Transportation.

b. In addition to the foregoing powers, the authority or the EDA, as a designated redeveloper and their respective authorized agents and, with respect to EDA, its employees, may enter upon any lands, waters, and premises for the purpose of making surveys, soundings, drillings and examinations as it may deem necessary or convenient for the purposes of this act, all in accordance with due process of law, and this entry shall not be deemed a trespass nor shall an entry for this purpose be deemed an entry under any condemnation proceedings which may be then pending. The authority or the EDA, as applicable, shall make reimbursement for any actual damages resulting to the lands, waters, and premises as a result of these activities.

c. The authority or the EDA, as a designated redeveloper, shall also have power to make regulations, based on the appropriate national model code, for the installation, construction, maintenance, repair, renewal, relocation, and removal of tracks, pipes, mains, conduits, cables, wires, towers, poles and other equipment and appliances, herein called "public utility facilities," of any public utility as defined in R.S.48:2-13, in, on, along, over or under any project. Whenever the authority or the EDA, as a designated redeveloper, shall determine that it is necessary that any public utility facilities which now are, or hereafter may be, located in, on, along, over or under any project shall be relocated in the project, or should be removed from the project, the public utility owning or operating the facilities shall relocate or remove the same in accordance with the order of the authority or the EDA, as a designated redeveloper. The cost and expenses of the relocation or removal, including the cost of installing the facilities in a new location, or new locations, and the cost of any lands, or any rights or interests in lands, and any other rights, acquired to accomplish the relocation or removal, shall be ascertained and paid by the authority or the EDA, as applicable, as a part of the cost of the project. In case of any relocation or removal of facilities, as aforesaid, the public utility owning or operating the same, its successors or assigns, may maintain and operate the facilities, with the necessary appurte-

nances, in the new location or new locations, for as long a period, and upon the same terms and conditions, as it had the right to maintain and operate the facilities in their former location or locations. In all undertakings authorized by this subsection the authority or the EDA, as a designated redeveloper, shall consult with the affected utilities in an attempt to come to agreement on the proposed undertaking. If the authority or the EDA, as a designated redeveloper, are not able to come to an agreement on such undertakings, the authority or the EDA, as a designated redeveloper, shall petition the Board of Public Utilities to obtain approval for such undertakings. The provisions of this subsection shall not affect the Board of Public Utilities' jurisdiction over any public utility as defined in R.S.48:2-13.

C.52:27I-37 Business plan.

20. The authority is directed to prepare and complete a business plan which comprises all issues related to the closure, conversion, revitalization, and future use of Fort Monmouth. Further, this business plan shall: include a validation review of any extant studies on the perceived economic impact of this project on the State, the county, and the boroughs of Eatontown, Oceanport and Tinton Falls; refine existing market analyses and develop an absorption schedule; develop a short and long term job creation schedule; include a detailed fiscal analysis that considers cash flow, annual revenue and costs, cumulative revenue and costs, off-site infrastructure costs, and product absorption by year; include an investment and financing strategy that includes grants, local funding options such as the tax allocation district, bonds, taxation, licensing, permitting and fees, and private investment; include a determination of fair market value of property by parcel and overall, and propose an appropriate and feasible strategy for using available BRAC transfer tools.

C.52:27I-38 Redevelopment agreement.

21. Redevelopment within the project area shall be implemented pursuant to a redevelopment agreement between the authority and the redeveloper, or between the authority and the EDA as a designated redeveloper, or between the EDA as a designated redeveloper and the redeveloper, as the case may be. All redevelopment agreements from or between the authority or the designated redeveloper and to or with a redeveloper shall contain, without being limited to, the following provisions: a. a provision limiting the use of the property to the uses permitted pursuant to the plan; b. a provision requiring the redeveloper to commence and complete the project within a period of time that the authority or the designated redeveloper fixes as reasonable; c. any lease to a redeveloper may provide that all improvements shall become the property of the authority; and d. such other

covenants, provisions, and continuing controls as may be deemed necessary to effectuate the purposes of this act.

C.52:27I-39 Fort Monmouth special improvement district.

22. a. For the purposes of this section:

"Affected municipality" means a municipality that is located within, in whole or in part, a Fort Monmouth special improvement district established pursuant to subsection b. of this section.

"Fort Monmouth special improvement district" means an area within the project area designated by resolution of the authority and by concurring ordinance of an affected municipality as an area in which a special assessment on property within the project area shall be imposed for the purposes of promoting the economic and general welfare of the project area. The resolution shall exempt residential properties, residential portions of mixed use properties, or parcels with any number of residential units located within the Fort Monmouth special improvement district from special assessment. The resolution may exempt vacant properties within the Fort Monmouth special improvement district from special assessment.

b. A Fort Monmouth special improvement district resolution may be adopted if the authority finds: (1) that an area within the project area, as described by lot and block numbers and by street addresses in the enabling resolution, would benefit from being designated as a Fort Monmouth special improvement district; (2) that the authority would provide administrative and other services to benefit the businesses, employees, residents and consumers in the Fort Monmouth special improvement district; (3) that a special assessment shall be imposed and collected by the affected municipality or municipalities with the regular property tax payment or payment in lieu of taxes or otherwise, and that all or a portion of these payments shall be transferred to the authority to effectuate the purposes of this act and to exercise the powers given to it by resolution; and (4) that it is in the best interest of the public to create a Fort Monmouth special improvement district. If the authority determines that the imposition and collection of the special assessment will involve annual costs to an affected municipality in addition to the initial cost of the imposition and collection of the regular property tax payment or payment in lieu of taxes or otherwise, and that such annual costs relate to property tax payment imposition and collection activities peculiar to the Fort Monmouth special improvement district, and distinguished from property tax payment imposition and collection activities normally provided by the municipality outside of the Fort Monmouth special improvement district, the authority shall provide that the property

tax payment imposition and collection activities of the affected municipality be conducted pursuant to the provisions of this act and provide that no more than 25 percent of the funds generated from the proceeds of the collection of the special assessment be retained by the affected municipality to cover the costs of the property tax payment imposition and collection activities of the affected municipality conducted pursuant to the provisions of this act. The percentage amount of funds to be retained by the affected municipality for such purpose shall be established by agreement with the authority and by concurring ordinance of the affected municipality prior to the collection of the special assessment, and such percentage amount shall not be changed throughout the duration of the agreement.

c. The authority may, by resolution, authorize the commencement of studies and the development of preliminary plans and specifications relating to the creation and maintenance of a Fort Monmouth special improvement district, including, whenever possible, estimates of construction and maintenance, and costs and estimates of potential gross benefit assessment. These studies and plans may include criteria to regulate the construction and alteration of facades of buildings and structures in a manner which promotes unified or compatible design.

d. Upon review of the reports and recommendations submitted, a resolution may be adopted authorizing and directing the establishment and maintenance of a Fort Monmouth special improvement district. In addition to other requirements for the consideration and adoption of resolutions, at least 10 days prior to the date fixed for a public hearing thereon, a copy of the proposed resolution and notice of the date, time, and place of the hearing shall be mailed to the owners of the lots or parcels of land abutting or included in the Fort Monmouth special improvement district proposed by the resolution.

e. A Fort Monmouth special improvement district resolution may provide that a Fort Monmouth special improvement district shall be deemed a local improvement in accordance with this act and the provisions of chapter 56 of Title 40 of the Revised Statutes, R.S.40:56-1 et seq.; that all costs of development, construction, and acquisition relating to the provision of improvements for a Fort Monmouth special improvement district, as the case may be, shall be financed by the authority and assessed by the affected municipality or municipalities, as the case may be, to properties especially benefited thereby as provided generally by R.S.40:56-1 et seq., and the resolution shall list and describe, by lot and block numbers and by street addresses, all properties to be assessed for the Fort Monmouth special improvement district improvements. The affected municipality or municipalities, as the case may

be, may provide by ordinance or parallel ordinance for one or more special assessments within the Fort Monmouth special improvement district in accordance with chapter 56 of Title 40 of the Revised Statutes, R.S.40:56-1 et seq.; provided that the special assessment carried out pursuant to this section shall be deemed an assessment for benefits and shall be as nearly as may be in proportion to and not in excess of the peculiar benefit, advantage, or increase in value which the respective lots and parcels of real estate shall be deemed to receive by reason of such improvement.

f. If the authority determines that the improvements will involve annual costs to an affected municipality, in addition to the initial cost of constructing and making the improvements, and that such annual costs relate to maintenance services peculiar to the Fort Monmouth special improvement district, and distinguished from maintenance services normally provided by the municipality outside of the Fort Monmouth special improvement district, and will provide benefits primarily to property included in the district, rather than to the municipality as a whole, the resolution shall provide that the improvements and facilities thereof shall be operated and maintained pursuant to the provisions of this act and the municipality shall be authorized to provide that the costs thereof be assessed or taxed to benefited properties or businesses pursuant to the provisions of section 16 of P.L.1972, c.134 (C.40:56-80). At any time after the Fort Monmouth special improvement district resolution has been adopted or lands have been acquired or improved for a Fort Monmouth special improvement district, the authority may upon such determination provide, by separate resolution or by amendment to the resolution, that the improvements and facilities thereof shall be so operated and maintained and the costs so assessed to benefited properties or businesses. In any such case, such resolution shall describe the properties to be assessed, or in which any businesses may be contained which may be assessed, for such annual costs, which area may be given the name "(name of Fort Monmouth Special Improvement District) Fort Monmouth Improvement District."

C.52:27I-40 Fort Monmouth Transportation Planning District.

23. a. There is established the Fort Monmouth Transportation Planning District which shall consist of those lands which comprise the project area. The authority shall administer and manage the transportation planning district and carry out such additional functions as provided herein.

b. In furtherance of the development of a coherent and sustainable transportation system for the project area, the authority shall initiate a joint planning process with participation by: State departments and agencies, cor-

porations, commissions, boards, and authorities; metropolitan planning organizations, and counties and municipalities with jurisdiction in the district; and private representatives. The authority shall oversee the development and updating of a comprehensive, future-oriented district transportation plan.

c. The district transportation plan shall establish goals, policies, needs, and improvement priorities for all modes of transportation, including walking and bicycling, within the district and shall be consistent with the revitalization plan. The district transportation plan shall be based on a reasonable assessment of likely future growth reflected in the revitalization plan.

d. The district transportation plan shall quantify transportation needs arising from anticipated future traffic passing within or through the district based upon future development anticipated to occur within or through the district, and reflected in the revitalization plan. The district transportation plan shall set forth proposed transportation projects designed to address that future development, prioritized over increments of five years, the allocation of public and private shares of project costs and allowable administrative costs, and the amount, schedule, and collection of development fees. If new developments are proposed in the district which are not considered in the district transportation plan which is currently in effect, that plan shall be reevaluated, notwithstanding the five-year increment provision.

e. The district transportation plan shall be in accordance with the State transportation master plan adopted under section 5 of P.L.1966, c.301 (C.27:1A-5), the applicable county master plans adopted under R.S.40:27-2, and the applicable regional transportation plan or plans adopted by a metropolitan planning organization pursuant to 23 C.F.R.s.450.322.

f. The district transportation plan shall include a financial element setting forth a statement of projected revenue and expenses, including all project costs. The financial element of the district transportation plan shall identify public and private financial resources which may be available to fund, in whole or in part, those transportation projects set forth in that plan. The financial element shall make recommendations for the types and rates of development fees to be assessed under subsection i. of this section, formulas to govern the assessment of those fees, and the projected annual revenue to be derived therefrom.

g. The authority staff shall make copies of the district transportation plan available to the public for inspection no less than 14 days prior to any formal action by the authority to adopt the plan. In addition, the authority staff shall take steps to notify members of the business community and other interested parties of the district transportation plan and shall hold a public hearing thereon after having given public notice of the hearing.

h. The authority may, by resolution adopt the district transportation plan as recommended by the staff or with modifications.

i. After the adoption of the district transportation plan by the authority pursuant to subsection h. of this section, the authority may, by resolution, provide for the assessment and collection of development fees on developments within the transportation planning district as provided hereunder.

j. Development fees assessed by the authority shall be based upon the growth and development forecasts contained in the district transportation plan and shall be levied in order to raise only those amounts needed to accomplish the transportation projects set forth in the district transportation plan and allowable administrative costs. Those fees shall be assessed based upon the formula or formulas contained in the resolution adopted pursuant to subsection i. of this section and shall be uniformly applied, with such exceptions as are authorized or required herein.

k. A formula or formulas adopted by the authority by resolution shall reflect a methodology which relates the use of land to the impact of the proposed development on the transportation system, including, but not limited to: vehicle trips generated by the development; the square footage of an occupied structure; the number of employees regularly employed at the development; or the number of parking spaces located at the development; or any combination thereof.

l. The resolution may provide for credits against assessed development fees for payments made or expenses incurred which have been determined by the authority to be in furtherance of the district transportation plan, including, but not limited to, contributions to transportation improvements other than those required for safe and efficient highway access to a development, and costs attributable to the promotion of public transit, walking, bicycling, or ridesharing.

m. The resolution may either exempt or reduce the development fee for specified land uses which have been determined by the authority to have a beneficial, neutral, or comparatively minor adverse impact on the transportation needs of the transportation planning district.

n. The resolution may provide for a reduced rate of development fees for developers submitting a peak-hour automobile trip reduction plan approved by the authority under standards adopted by the authority. Standards for the approval of peak-hour automobile trip reduction plans may include, but need not be limited to, physical design for improved transit, ridesharing, and pedestrian access; design of developments which include a mix of residential and nonresidential uses; and proximity to potential labor pools.

o. The assessment of a development fee shall be reasonably related to the impact of the proposed development on the transportation system of the transportation planning district and shall not exceed the development's fair share of the cost of the transportation improvement necessary to accommodate the additional burden on the district's transportation system that is attributable to the proposed development and related allowable administrative costs.

p. A resolution shall be sufficiently certain and definitive to enable every person who may be required to pay a fee to know or calculate the limit and extent of the fee which is to be assessed against a specific development.

q. Upon the adoption by the authority of a resolution pursuant to subsection i. of this section, no separate assessment for off-site transportation improvements within the transportation planning district shall be made by the State, a county, or municipality except as permitted pursuant to this act.

r. A resolution adopted by the authority pursuant to subsection i. of this section shall provide for the establishment of a transportation planning district fund under the control of the authority and administered by the New Jersey Economic Development Authority. All monies collected from development fees shall be deposited into the fund, which shall be invested in an interest-bearing account. Monies deposited in the fund shall be used to defray project costs and allowable administrative costs.

s. Every transportation project funded, in whole or in part, by funds from a transportation planning district fund shall be subject to a project agreement to which the relevant entities are parties. The expenditure of funds for this purpose shall not be made from a transportation planning district fund, except by approval of the project budget by the authority and upon certification of the chief fiscal officer of the New Jersey Economic Development Authority that the expenditure is in accordance with a project agreement or is otherwise a project cost and has the approval of the authority.

t. Notwithstanding any other law to the contrary, no development fees shall be assessed for any low and moderate income housing units which are constructed pursuant to the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.) or under court order or settlement.

u. (1) The payments due to the authority, whether as a lump sum or as balances due when a series of payments is to be made, shall be enforceable by the authority as a lien on the land and any improvements thereon. The lien shall be recorded by the county officer in the record book of the county office.

(2) When the fee is paid in full on the development or portion thereof, the lien on the development or portion thereof, as appropriate, shall be re-

moved. When a series of payments is to be made, failure to make any one payment within 30 days after receipt of a notice of late payment shall constitute a default and shall obligate the person owing the unpaid balance to pay that balance in its entirety.

(3) All amounts assessed as a lien pursuant to this section shall be a lien upon the land against which they are assessed in the same manner that taxes are made a lien against land pursuant to Title 54 of the Revised Statutes, and the payment thereof shall be enforced within the same time and in the same manner and by the same proceedings as the payment of taxes is otherwise enforced under Title 54 of the Revised Statutes.

v. (1) Any fees collected, plus earned interest, not committed to a transportation project under a project agreement entered into under subsection s. of this section within 10 years of the date of collection, or not used for other allowable administrative costs within 10 years of the date of collection, shall be refunded to the fee-payer under a procedure prescribed by the authority; provided, however, that if the fee-payer transfers the development or any portion thereof, the fee-payer shall enter into an agreement with the grantee in such form as shall be provided by the authority which shall indicate who shall be entitled to receive any refund, and that agreement shall be filed with the chief fiscal officer of the EDA.

(2) Any person who has been assessed a development fee may request in writing a reconsideration of the assessment and a hearing by an employee so delegated by the authority within 90 days of the receipt of notification of the amount of the assessment on the grounds that the authority or its officers or employees in issuing the assessment did not abide by the provisions of this section or the provisions of the resolution adopted by the authority pursuant to this section.

w. A person may appeal to the authority any decision made in connection with the reconsideration of an assessment as authorized pursuant to subsection v. of this section. The authority shall review the record of the hearing and render its decision, which shall constitute an administrative action subject to review by the Appellate Division of the Superior Court. Nothing contained herein shall be construed as limiting the ability of any person so assessed from filing an appeal based upon an agreement to pay or actual payment of the fee.

x. If the authority, in conjunction with the New Jersey Transit Corporation, shall cause a passenger rail station to be designed, constructed and operated within the project area, prior to taking any such action, the authority shall receive written approval by resolution from the governing body of the host municipality in which the passenger rail station is to be located.

y. For the purposes of this section:

"Allowable administrative costs" means expenses incurred by the authority in developing a district transportation plan, including a financial element, and in managing a transportation planning district.

"Developer" means the legal or beneficial owner or owners of a lot or of any land proposed to be included in a proposed development, including the holder of an option or contract to purchase, or other person having an enforceable proprietary interest in such land.

"Development" means "development" in the meaning of section 3.1 of the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-4).

"Development fee" means a fee assessed on a development pursuant to a resolution of the authority adopted under subsection i. of this section.

"District" or "transportation planning district" means the Fort Monmouth Transportation Planning District established pursuant to subsection a. of this section.

"Project agreement" means an agreement between the authority and a developer providing the terms and conditions under which the developer agrees to perform any work or undertaking necessary for a transportation project.

"Project costs" means expenses incurred in the planning, design, engineering and construction of any transportation project, and shall include debt service.

"Public highways" means public roads, streets, expressways, freeways, parkways, motorways, and boulevards including bridges, tunnels, overpasses, underpasses, interchanges, rest areas, express bus roadways, bus pullouts and turnarounds, park-ride facilities, traffic circles, grade separations, traffic control devices, the elimination or improvement of crossings of railroads and highways, whether at grade or not at grade, bicycle and pedestrian pathways, pedestrian and bicycle bridges traversing public highways, and any facilities, equipment, property, rights-of-way, easements and interests therein needed for the construction, improvement, and maintenance of highways.

"Public transportation project" means, in connection with public transportation service or regional ridesharing programs, passenger stations, shelters and terminals, automobile parking facilities, ferries and ferry facilities including capital projects for ferry terminals, approach roadways, pedestrian accommodations, parking, docks, and other necessary land-side improvements, ramps, track connections, signal systems, power systems, information and communication systems, roadbeds, transit lands or rights-of-way equipment storage and servicing facilities, bridges, grade crossings,

rail cars, locomotives, motorbus and other motor vehicles, maintenance and garage facilities, revenue handling equipment and any other equipment, facility or property useful for or related to the provision of public transportation service or regional ridesharing programs.

"Transportation project" or "transportation improvement" means, in addition to public highways and public transportation projects, any equipment, facility, or property useful or related to the provision of any ground, waterborne, or air transportation for the movement of people and goods within or through the district, including rail freight infrastructure.

C.52:27I-41 Creation of infrastructure district.

24. a. The authority may adopt a resolution creating an infrastructure district whenever the authority determines that the improvement of the infrastructure of the property within the infrastructure district will promote the health and general welfare of the residents of the project area, the host municipalities, and the infrastructure district. An infrastructure district created pursuant to this subsection may be comprised of any or all lands which comprise the project area. The authority may create, by separate resolution, more than one infrastructure district.

b. (1) If so determined by the authority, the receipts of retail sales, except retail sales of motor vehicles, of alcoholic beverages as defined in the "Alcoholic beverage tax law," R.S.54:41-1 et seq., of cigarettes as defined in the "Cigarette Tax Act," P.L.1948, c.65 (C.54:40A-1 et seq.), and of energy, made by a certified vendor from a place of business owned or leased and regularly operated by the vendor for the purpose of making retail sales, and which place of business is located within an infrastructure district created pursuant to subsection a. of this section, will be exempt to the extent of 50 percent of the tax imposed under the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.); and the authority for the purpose of increasing public revenue may adopt a resolution to levy and collect, within an infrastructure district created pursuant to subsection a. of this section, a franchise assessment not to exceed an amount equivalent to 50 percent of the tax imposed under the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.) and to devote the proceeds from those assessments to purposes as provided in this section.

Any vendor having a place of business located within an infrastructure district may apply to the Executive Director of the EDA for certification pursuant to this paragraph. The executive director shall certify a vendor if the executive director shall find that the vendor owns or leases and regularly operates a place of business located in an infrastructure district for the

purposes of making retail sales, that items are regularly exhibited and offered for retail sale at that location, and that the place of business is not utilized primarily for the purpose of catalogue, Internet or mail order sales. The executive director may at any time revoke a certification granted pursuant to this paragraph. The executive director shall immediately notify the Director of the Division of Taxation in the Department of the Treasury of any such certification or revocation.

(2) The rate of the franchise assessment shall be uniform throughout the infrastructure district. The franchise assessment shall apply only within the territorial limits of the infrastructure district and shall be in addition to any other assessments, taxes, and excises.

(3) The resolution adopted pursuant to subsection a. of this section shall continue in force and effect until repealed by the authority.

(4) No franchise assessment shall be imposed on gross receipts which a municipality or the State is prohibited from taxing under New Jersey law, or the Constitution and laws of the United States of America.

(5) Upon adoption, the authority shall immediately transmit a copy of the resolution to the Director of the Division of Local Government Services in the Department of Community Affairs and to the Director of the Division of Taxation in the Department of the Treasury. Every resolution levying a franchise assessment pursuant to this section shall provide for reporting assessments due and for the collection thereof, and all franchise assessments pursuant to such a resolution shall be remitted to the chief financial officer of the EDA. A resolution levying a franchise assessment shall take effect only on the first day of any month in any year. The resolution shall provide for the allocation and distribution of the proceeds of the franchise assessments collected.

(6) The resolution shall set forth the person or persons subject to the franchise assessment payment and collection procedures, and any other matters deemed relevant by the authority with the authority having discretion as to the mechanism to be utilized. The resolution shall also contain findings that the imposition of the franchise assessment is necessary because of the substantial risks undertaken to develop an infrastructure district.

(7) The resolution shall provide for the collection of the franchise assessment by an officer of the authority who shall be designated in the resolution; shall provide methods for enforcement; shall provide the permitted uses of the franchise assessment; and may provide penalties for the violation of any of the provisions of the resolution. "Permitted uses" may include the provision of loans, grants, or debt service for financing or refinancing the construction, reconstruction, repair, alteration, improvement,

and development of any on-site or off-site infrastructure improvements, or parking or transportation facilities, or work that reduces, abates, or prevents environmental pollution, or other improvements that provide a public benefit within or to an infrastructure district.

c. For the purposes of effective administration of the franchise assessment, the authority shall have the authority to:

(1) Collect the franchise assessment, interest, and penalties imposed by a resolution adopted pursuant to paragraph (1) of subsection b. of this section which shall from the time due be a debt of the person by whom payable to the authority, recoverable in a court of competent jurisdiction in a civil action in the name of the authority to be instituted within three years of the date due.

(2) Authorize, as an additional remedy, the chief financial officer of the EDA to issue a certificate to the clerk of the Superior Court that any person is indebted under the resolution in an amount stated in the certificate. Thereupon, the clerk to whom the certificate is issued shall immediately enter upon the record of documented judgments the name of the person, the address of the place of business where the franchise assessment liability was incurred, the amount of the debt so certified, and the date of making of the entry. The making of the entry shall have the same force and effect as the entry of a documented judgment in the office of the clerk, and the chief financial officer of the EDA shall have all the remedies and may take all the proceedings for the collection of the debt which may be had or taken upon the recovery of a judgment in an action, but without prejudice to the person's right of appeal.

(3) Provide that, if for any reason the franchise assessment is not paid when due, interest at the rate of 12% per annum on the amount of the franchise assessment due, and an additional penalty of one-half of 1% of the amount of the unpaid assessment for each month or fraction thereof during which the franchise assessment remains unpaid, shall be added and collected. When action is brought for the recovery of any franchise assessment, the person liable therefor shall, in addition, be liable for the reasonable costs of collection and the interest and penalties imposed.

Any aggrieved person may, within 90 days of the entry of the decision, order, finding, assessment or action of the chief financial officer of the EDA under this section, file an appeal in the Superior Court, upon payment of the amount stated by the chief financial officer of the EDA to be due. The appeal provided by this section shall be the exclusive remedy available to any person for review of a determination of the chief financial officer of the EDA with respect to a liability for the franchise assessment imposed.

For the purposes of this section, "franchise assessment" means an assessment on the amount of the sales price of all tangible personal property and specified digital products, sold by a business, valued in money, whether received in money or otherwise, in the amount of 50 percent of the tax imposed pursuant to the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.); "sales price," "tangible personal property," and "specified digital products" have the meanings given those terms by section 2 of P.L.1966, c.30 (C.54:32B-2).

Repealer.

25. The following are repealed:
Sections 1 through 13 of P.L.2006, c.16 (C.52:27I-1 to 52:27I-13);
Sections 15 and 16 of P.L.2006, c.16 (C.52:27I-15 and 52:27I-16).

26. This act shall take effect on the 30th day after the date of enactment, except that section 25 shall take effect on the date that the authority assumes all of the powers, rights, assets, and duties of the predecessor authority.

Approved August 17, 2010.

CHAPTER 52

AN ACT concerning the powers of the director of the board of freeholders over county authorities, supplementing Title 40 of the Revised Statues and amending various parts of the statutory law.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

C.40:20-71.3 Veto power of director of board of chosen freeholders, certain.

1. a. The director of the board of chosen freeholders is authorized and empowered, with the consent of a majority of the members of the board, but not otherwise, to veto any action taken by any county authority or any member thereof at a meeting of a county authority. No action taken at a meeting by members of any county authority shall be effective if the director of the board of chosen freeholders returns to the authority a copy of the minutes with a veto of any action taken by the authority or any member thereof at a meeting of the authority or until 10 days after a copy of the

minutes shall have been delivered to each member of the board of chosen freeholders.

b. "County authority" in this section means a body, public and corporate, created by a county pursuant to any law authorizing that creation, which law provides that the public body so created has at least the following powers:

(1) To adopt and use a corporate seal;

(2) To sue and be sued;

(3) To acquire and hold real or personal property for its purposes; and

(4) To provide for and secure the payment of its bonds or other obligations, or to provide for the assessment of a tax on real property within its district, or to impose charges for the use of its facilities or any combination thereof.

2. Section 5 of P.L.1946, c.138 (C.40:14A-5) is amended to read as follows:

C.40:14A-5 Powers of sewerage authority.

5. (a) The powers of a sewerage authority shall be vested in the members thereof in office from time to time. A majority of the entire authorized membership of the sewerage authority shall constitute a quorum at any meeting thereof. Action may be taken and motions and resolutions adopted by the sewerage authority at any meeting of the members thereof by vote of a majority of the members present, unless in any case the by-laws of the sewerage authority shall require a larger number. The sewerage authority may delegate to one or more of its officers, agents or employees such powers and duties as it may deem proper.

The minutes of every meeting of an authority created by a county organized pursuant to the provisions of the "county executive plan" of the "Optional County Charter Law," P.L.1972, c.154 (C.40:41A-1 et seq.) shall be delivered by the end of the fifth business day following the meeting, except as otherwise provided herein, by and under the certification of the secretary of the authority to the county executive. Except as otherwise provided herein, no action taken at a meeting by the members of an authority shall be effective until approved by the county executive or until 10 days after the copy of the minutes shall have been delivered. If, within the 10-day period, the county executive returns to the authority and to the board of freeholders the copy of the minutes with a veto of any action taken by the authority or any member thereof at a meeting, together with a written explanation of the reasons for his veto of the action, that action shall be of no effect unless the

board of freeholders overrides the veto of the action by a majority vote of its full membership within 10 days of the receipt of the veto action. The county executive may approve all or any part of an action taken at a meeting prior to the expiration of the 10-day period. If the county executive takes no action with respect to the minutes within the 10-day period, the minutes shall be deemed to be approved. The veto powers accorded under this subsection shall not affect in any way the covenants contained in the bond indentures of the authority, or any collective bargaining agreement or binding arbitration decisions affecting employees of the authority.

No resolution or other action of the authority providing for the issuance or refunding of bonds or other financial obligations shall be adopted or otherwise made effective by the authority without the prior approval in writing of the county executive. This power shall be exercised with due regard for the rights of the holders of bonds of the authority at any time outstanding, and nothing in, or done pursuant to, this subsection shall in any way limit, restrict or alter the obligations or powers of the authority or any representative or officer of the authority to carry out and perform in every detail each and every covenant, agreement or contract at any time made or entered into by or on behalf of the authority with respect to its bonds or for the benefit, protection or security of the holders thereof.

If two-thirds or more of the members of an authority make a determination that an action taken at a meeting is in response to an emergency situation, a copy of the minutes of that meeting shall be delivered to the county executive as soon as practicable following the meeting and the county executive shall have up to 24 hours after the copy of the minutes has been delivered to approve or veto the minutes of that meeting. If the county executive takes no action with respect to the minutes within the 24-hour period, the minutes shall be deemed approved. If, within the 24-hour period, the county executive returns to the authority and to the board of freeholders the copy of the minutes with a veto of any action taken by the authority or any member thereof at the meeting, together with a written explanation of the reasons for his veto of the action, that action shall be of no effect unless the board of freeholders overrides the veto of the action by a majority vote of its full membership within 48 hours of the receipt of the veto action.

(b) Each member of a sewerage authority shall hold office for the term for which he was appointed and until his successor has been appointed and has qualified.

(c) No member, officer or employee of a sewerage authority shall have or acquire any interest, direct or indirect, in the sewerage system or in any property included or planned to be included in the sewerage system or in any

contract or proposed contract for materials or services to be furnished to or used by the sewerage authority, but neither the holding of any office or employment in the government of any county or municipality or under any law of the State nor the owning of any property within the State shall be deemed a disqualification for membership in or employment by a sewerage authority, and members of the governing body of a local unit may be appointed by such governing body and may serve as members of a sewerage authority. A member of a sewerage authority may be removed only by the governing body by which he was appointed and only for inefficiency or neglect of duty or misconduct in office and after he shall have been given a copy of the charges against him and, not sooner than ten days thereafter, had opportunity in person or by counsel to be heard thereon by such governing body.

(d) A sewerage authority may reimburse its members for necessary expenses incurred in the discharge of their duties. The resolution, ordinance or parallel ordinances for the creation of a sewerage authority may provide that the members of the sewerage authority may receive compensation for their services within an annual and other limitations to be stated in such resolution, ordinance or parallel ordinances, and in that event, each member may receive from the sewerage authority such compensation for his services as the sewerage authority may determine within the limitations stated in such resolution, ordinance or parallel ordinances. The said annual or other limitations stated in any such resolution, ordinance or parallel ordinances may be amended by subsequent resolution, ordinance or parallel ordinances, as the case may be, but no reduction of any such limitation shall be effective as to any member of the sewerage authority then in office except upon the written consent of the sewerage authority. No member of any sewerage authority shall receive any compensation for his services except as provided in this subsection.

(e) Every sewerage authority, upon the first appointment of its members and thereafter on or after the first day of February in each year, shall annually elect from among its members a chairman and a vice-chairman who shall hold office, until the first day of February next ensuing and until their respective successors have been appointed and have qualified. Every sewerage authority may also, without regard to the provisions of Title 11 of the Revised Statutes, appoint and employ a secretary and such professional and technical advisers and experts and such other officers, agents and employees as it may require, and shall determine their qualifications, terms of office, duties and compensation.

(f) The minutes of every meeting of an authority created by a county which has not adopted the provisions of the "Optional County Charter Law,"

P.L.1972, c.154 (C.40:41A-1 et seq.), shall be delivered by the end of the fifth business day following the meeting, by and under the certification of the secretary of the authority to each member of the county board of freeholders. No action taken at a meeting by the members of an authority shall be effective if, within 10 days after the copy of the minutes shall have been delivered to each member of the board of freeholders, such action is vetoed by the director of the board of freeholders, with the concurrence of a majority of the members of the board of freeholders. If, within the 10-day period, the board of freeholders returns to the authority the copy of the minutes with a veto of any action taken by the authority or any of the authority's members thereof at a meeting, that action shall be of no effect. If the director takes no action with respect to the minutes within the 10-day period, the minutes shall be deemed to be approved. The veto power accorded under this subsection shall not affect in any way the covenants contained in the bond indentures of the authority, or any collective bargaining agreement or binding arbitration decisions affecting employees of the authority.

3. Section 14 of P.L.1957, c.183 (C.40:14B-14) is amended to read as follows:

C.40:14B-14 Powers vested in members, quorum; minutes, approval.

14. a. The powers of a municipal authority shall be vested in the members thereof in office from time to time. A majority of the entire authorized membership of the municipal authority shall constitute a quorum at any meeting thereof. Action may be taken and motions and resolutions adopted by the municipal authority at any meeting of the members thereof by vote of a majority of the members present, unless in any case the by-laws of the municipal authority shall require a larger number.

b. The minutes of every meeting of an authority created by a county organized pursuant to the provisions of the "county executive plan" of the "Optional County Charter Law," P.L.1972, c.154 (C.40:41A-1 et seq.) shall be delivered by the end of the fifth business day following the meeting, except as otherwise provided in subsection d. of this section, by and under the certification of the secretary of the authority to the county executive. Except as otherwise provided in subsection d. of this section, no action taken at a meeting by the members of an authority shall be effective until approved by the county executive or until 10 days after the copy of the minutes shall have been delivered. If, within the 10-day period, the county executive returns to the authority and to the board of freeholders the copy of the minutes with a veto of any action taken by the authority or any member

thereof at a meeting, together with a written explanation of the reasons for his veto of the action, that action shall be of no effect unless the board of freeholders overrides the veto of the action by a majority vote of its full membership within 10 days of the receipt of the veto action. The county executive may approve all or any part of an action taken at a meeting prior to the expiration of the 10-day period. If the county executive takes no action with respect to the minutes within the 10-day period, the minutes shall be deemed to be approved. The veto powers accorded under this subsection shall not affect in any way the covenants contained in the bond indentures of the authority, or any collective bargaining agreement or binding arbitration decisions affecting employees of the authority.

c. No resolution or other action of the authority providing for the issuance or refunding of bonds or other financial obligations shall be adopted or otherwise made effective by the authority without the prior approval in writing of the county executive. This power shall be exercised with due regard for the rights of the holders of bonds of the authority at any time outstanding, and nothing in, or done pursuant to, this subsection shall in any way limit, restrict or alter the obligations or powers of the authority or any representative or officer of the authority to carry out and perform in every detail each and every covenant, agreement or contract at any time made or entered into by or on behalf of the authority with respect to its bonds or for the benefit, protection or security of the holders thereof.

d. If two-thirds or more of the members of an authority make a determination that an action taken at a meeting is in response to an emergency situation, a copy of the minutes of that meeting shall be delivered to the county executive as soon as practicable following the meeting and the county executive shall have up to 24 hours after the copy of the minutes has been delivered to approve or veto the minutes of that meeting. If the county executive takes no action with respect to the minutes within the 24-hour period, the minutes shall be deemed approved. If, within the 24-hour period, the county executive returns to the authority and to the board of freeholders the copy of the minutes with a veto of any action taken by the authority or any member thereof at the meeting, together with a written explanation of the reasons for his veto of the action, that action shall be of no effect unless the board of freeholders overrides the veto of the action by a majority vote of its full membership within 48 hours of the receipt of the veto action.

e. The minutes of every meeting of an authority created by a county which has not adopted the provisions of the "Optional County Charter Law," P.L.1972, c.154 (C.40:41A-1 et seq.), shall be delivered by the end of the fifth business day following the meeting, by and under the certification of

the secretary of the authority to each member of the county board of freeholders. No action taken at a meeting by the members of an authority shall be effective if within 10 days after the copy of the minutes shall have been delivered to each member of the board of freeholders, such action is vetoed by the director of the board of freeholders, with the concurrence of a majority of the members of the board of freeholders. If, within the 10-day period, the board of freeholders returns to the authority the copy of the minutes with a veto of any action taken by the authority or any of the authority's members thereof at a meeting, that action shall be of no effect. If the director takes no action with respect to the minutes within the 10-day period, the minutes shall be deemed to be approved. The veto power accorded under this subsection shall not affect in any way the covenants contained in the bond indentures of the authority, or any collective bargaining agreement or binding arbitration decisions affecting employees of the authority.

4. Section 7 of P.L.1960, c.183 (C.40:37A-50) is amended to read as follows:

C.40:37A-50 Powers vested in members, quorum; minutes, approval.

7. a. The powers of an authority shall be vested in the members thereof in office from time to time, and a majority of the entire authorized voting membership of the authority shall constitute a quorum at any meeting thereof. Action may be taken and motions and resolutions adopted by the authority at any meeting of the members thereof by the affirmative vote of a majority of the voting members present, unless in any case the bylaws of the authority shall require a larger number.

b. The minutes of every meeting of an authority created by a county organized pursuant to the provisions of the "county executive plan" of the "Optional County Charter Law," P.L.1972, c.154 (C.40:41A-1 et seq.) shall be delivered by the end of the fifth business day following the meeting, except as otherwise provided in subsection d. of this section, by and under the certification of the secretary of the authority to the county executive. Except as otherwise provided in subsection d. of this section, no action taken at a meeting by the members of an authority shall be effective until approved by the county executive or until 10 days after the copy of the minutes shall have been delivered. If, within the 10-day period, the county executive returns to the authority and to the board of freeholders the copy of the minutes with a veto of any action taken by the authority or any member thereof at a meeting, together with a written explanation of the reasons for his veto of the action, that action shall be of no effect unless the board of

freeholders overrides the veto of the action by a majority vote of its full membership within 10 days of the receipt of the veto action. The county executive may approve all or any part of an action taken at a meeting prior to the expiration of the 10-day period. If the county executive takes no action with respect to the minutes within the 10-day period, the minutes shall be deemed to be approved. The veto powers accorded under this subsection shall not affect in any way the covenants contained in the bond indentures of the authority, or any collective bargaining agreement or binding arbitration decisions affecting employees of the authority.

c. No resolution or other action of the authority providing for the issuance or refunding of bonds or other financial obligations shall be adopted or otherwise made effective by the authority without the prior approval in writing of the county executive. This power shall be exercised with due regard for the rights of the holders of bonds of the authority at any time outstanding, and nothing in, or done pursuant to, this subsection shall in any way limit, restrict or alter the obligation or powers of the authority or any representative or officer of the authority to carry out and perform in every detail each and every covenant, agreement or contract at any time made or entered into by or on behalf of the authority with respect to its bonds or for the benefit, protection or security of the holders thereof.

d. If two-thirds or more of the members of an authority make a determination that an action taken at a meeting is in response to an emergency situation, a copy of the minutes of that meeting shall be delivered to the county executive as soon as practicable following the meeting and the county executive shall have up to 24 hours after the copy of the minutes has been delivered to approve or veto the minutes of that meeting. If the county executive takes no action with respect to the minutes within the 24-hour period, the minutes shall be deemed approved. If, within the 24-hour period, the county executive returns to the authority and to the board of freeholders the copy of the minutes with a veto of any action taken by the authority or any member thereof at the meeting, together with a written explanation of the reasons for his veto of the action, that action shall be of no effect unless the board of freeholders overrides the veto of the action by a majority vote of its full membership within 48 hours of the receipt of the veto action.

e. The minutes of every meeting of an authority created by a county which has not adopted the provisions of the "Optional County Charter Law," P.L.1972, c.154 (C.40:41A-1 et seq.), shall be delivered by the end of the fifth business day following the meeting, by and under the certification of the secretary of the authority to each member of the county board of freeholders. No action taken at a meeting by the members of an authority

shall be effective if within 10 days after the copy of the minutes shall have been delivered to each member of the board of freeholders, such action is vetoed by the director of the board of freeholders, with the concurrence of a majority of the members of the board of freeholders. If, within the 10-day period, the board of freeholders returns to the authority the copy of the minutes with a veto of any action taken by the authority or any of the authority's members thereof at a meeting, that action shall be of no effect. If the director takes no action with respect to the minutes within the 10-day period, the minutes shall be deemed to be approved. The veto power accorded under this subsection shall not affect in any way the covenants contained in the bond indentures of the authority, or any collective bargaining agreement or binding arbitration decisions affecting employees of the authority.

5. This act shall take effect immediately.

Approved August 18, 2010.

CHAPTER 53

AN ACT concerning hunting with bow and arrow, and amending R.S.23:4-16.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. R.S.23:4-16 is amended to read as follows:

Prohibited hunting practices; penalty.

23:4-16. a. No person, either in or on a motor vehicle or vehicle of any kind whatsoever, or by the aid or use of a light carried on or attached to a motor vehicle or vehicle of any kind, shall hunt for, pursue, shoot, shoot at, kill, capture, injure or destroy wildlife.

b. No person shall use any portable light or lights for the purpose of hunting for any wildlife excepting raccoon and opossum, or other species as provided by the State Game Code.

c. No person shall, for the purpose of hunting, taking or killing any wildlife, cast an arrow or discharge any firearm from or across any State, county, municipal, or publicly travelled road or highway.

d. (1) No person, except the owner or lessee of the building and persons specifically authorized by him in writing, which writing shall be in the person's possession, shall, for the purpose of hunting, taking or killing any wildlife, have in his possession a loaded firearm while within 450 feet of any occupied building in this State, or of any school playground.

(2) No person, except the owner or lessee of the building and persons specifically authorized by him in writing, which writing shall be in the person's possession, shall, for the purpose of hunting, taking or killing any wildlife, have in his possession a nocked arrow while within 150 feet of any occupied building in this State, or within 450 feet of any school playground, and a nocked arrow shall only be cast when a person is in an elevated position so that any arrow is aimed in a downward angle.

(3) For the purposes of this subsection, "occupied building" means any building constructed or adapted for overnight accommodation of a person, or for operating a business or engaging in an activity therein, whether or not a person is actually present.

e. A person who violates subsection a., b., or c. of this section shall be liable to a civil penalty of not less than $100 nor more than $200 for the first offense, and not less than $200 nor more than $500 for each subsequent offense. A person who violates subsection d. of this section shall be liable to a civil penalty of not less than $100 nor more than $300 for the first offense, and not less than $300 nor more than $1500 and permanent revocation of all license certificates required, and all privileges, to take or possess wildlife for each subsequent offense.

2. This act shall take effect immediately.

Approved August 18, 2010.

CHAPTER 54

AN ACT concerning community based deer management plans for county-owned lands and amending P.L.2000, c.46.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Section 1 of P.L.2000, c.46 (C.23:4-42.3) is amended to read as follows:

C.23:4-42.3 Application for special deer management area designation.

1. a. Whenever a county board of agriculture determines that a farm or farms located within the county has incurred significant crop damage caused by deer, based on evidence submitted by the county board of agriculture or the Center for Wildlife Damage Control in the New Jersey Agricultural Experiment Station at Rutgers, The State University, the county board of agriculture may apply to the Division of Fish and Wildlife for designation of a special deer management area. The application shall describe the nature and extent of crop damage incurred, and delineate the area proposed for designation as a special deer management area. If the division determines that the significant crop damage has been caused by an overpopulation of deer in the area described in the application, it shall designate it as a special deer management area. In designating a special deer management area, the division may, after consultation with the county board of agriculture, modify the area proposed for designation in an application. The county board of agriculture or the division may request the Center for Wildlife Damage Control to coordinate and facilitate the application and designation of a special deer management area pursuant to this subsection.

b. Whenever a municipality determines that the deer population has caused significant damage to property, not including damage to agricultural property, in the municipality or has caused a significant number of vehicle collisions therein, the municipality may apply to the Division of Fish and Wildlife for designation of a special deer management area. Two or more municipalities may submit a single application for the designation of an area that includes more than one municipality. The application shall describe the nature and extent of property damage or vehicle collisions caused by deer, and delineate the area proposed for designation as a special deer management area. If the division determines that the significant damage to property or a significant number of vehicle collisions has been caused by an overpopulation of deer in the area described in the application, it shall designate it as a special deer management area. In designating a special deer management area, the division may, after consultation with the municipality, modify the area proposed for designation in an application.

c. Whenever the owner or operator of an airport determines that the existing population of deer within its boundaries and immediately adjacent property constitutes a hazard to the safe operation of aircraft, the owner or operator of the airport may apply to the Division of Fish and Wildlife for designation of a special deer management area. The application shall describe the nature and extent of the hazard to safe operations of aircraft, and delineate the area proposed for designation as a special deer management

area. If the division determines that there is a hazard to the safe operation of aircraft at the airport due to deer in the area described in the application, it shall designate it as a special deer management area. In designating a special deer management area, the division may, after consultation with the owner or operator of the airport, modify the area proposed for designation in an application.

d. Whenever a county governing body determines that the deer population has caused significant damage to property, not including damage to agricultural property, in the county or has caused a significant number of vehicle collisions therein, the county governing body may apply to the Division of Fish and Wildlife for designation of a special deer management area. The application shall describe the nature and extent of property damage or vehicle collisions caused by deer, and delineate the lands owned by the county proposed for designation as a special deer management area. If the division determines that the significant damage to property or a significant number of vehicle collisions has been caused by an overpopulation of deer in the area described in the application, it shall designate it as a special deer management area. In designating a special deer management area, the division may, after consultation with the county governing body, modify the area proposed for designation in an application.

2. Section 2 of P.L.2000, c.46 (C.23:4-42.4) is amended to read as follows:

C.23:4-42.4 Submission of deer management plan.

2. a. Upon submission of an application pursuant to section 1 of P.L.2000, c.46 (C.23:4-42.3), or at any time thereafter, a county board of agriculture, municipal governing body, owner or operator of an airport, or county governing body may submit to the division for its approval a community based deer management plan proposing alternative control methods to reduce the number of deer in an area designated as a special deer management area pursuant to section 1 of P.L.2000, c.46. A county board of agriculture, municipal governing body, owner or operator of an airport, or county governing body may submit a community based deer management plan concurrently with an application to the division for designation of a special deer management area.

Two or more municipalities may submit a single community based deer management plan for a special deer management area that covers more than one municipality.

The county board of agriculture or the division may request the Center for Wildlife Damage Control in the New Jersey Agricultural Experiment Station at Rutgers, The State University, to coordinate and facilitate the development of a community based deer management plan.

b. A community based deer management plan shall:

(1) delineate the boundaries of the special deer management area;

(2) describe the proposed alternative control methods to reduce the number of deer in the special deer management area, which may include the methods authorized pursuant to section 3 of P.L.2000, c.46 (C.23:4-42.5);

(3) identify any organization that will participate in the implementation of the alternative control methods proposed in the plan, and describe its qualifications;

(4) describe the methods that will be used to notify the public, including residents located within and adjacent to the special deer management area, of the alternative control methods proposed in the plan and the specific times and the specific places when and where they will be used;

(5) describe the precautions that will be taken to ensure the safety of the public;

(6) document the written consent of each affected landowner for access to that person's land if access to private property is necessary to implement the plan;

(7) attach a resolution, adopted by the governing body of the municipality in which the special deer management area is located, which endorses the community based deer management plan, except this requirement shall not apply to a community based deer management plan submitted by a county governing body for lands owned by the county; and

(8) include such additional information as the division may determine to be necessary to properly review a community based deer management plan.

c. The division shall promptly review a community based deer management plan submitted pursuant to P.L.2000, c.46, and either approve the plan, approve the plan subject to modification, or disapprove the plan and return it to the applicant setting forth in writing the reasons for its decision. If the division approves a community based deer management plan, the division shall submit it to the Fish and Game Council for its review and action pursuant to section 3 of P.L.2000, c.46 (C.23:4-42.5).

d. Whenever practicable, a community based deer management plan shall provide for the donation of deer in accordance with the venison dona-

tion program established pursuant to section 1 of P.L.1997, c.268 (C.23:4-42.7).

e. For the purposes of P.L.2000, c.46 (C.23:4-42.3 et seq.), "alternative control method" or "alternative deer control method" means any technique, other than traditional hunting, employed to reduce a deer population, which may include, but need not be limited to, controlled hunting, shooting by an authorized agent, capture and euthanization, capture and removal, and fertility control.

3. This act shall take effect immediately.

Approved August 18, 2010.

CHAPTER 55

AN ACT concerning the municipal hotel occupancy tax and amending and supplementing P.L.2003, c.114.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Section 3 of P.L.2003, c.114 (C.40:48F-1) is amended to read as follows:

C.40:48F-1 Hotel, motel tax authorized, certain.

3. The governing body of a municipality, other than a city of the first class or a city of the second class in which the tax authorized under P.L.1981, c.77 (C.40:48E-1 et seq.) is imposed, a city of the fourth class in which the tax authorized under P.L.1947, c.71 (C.40:48-8.15 et seq.) is imposed, or a municipality in which the tax and assessment authorized under section 4 of P.L.1992, c.165 (C.40:54D-4) is imposed, may adopt an ordinance imposing a tax, at a uniform percentage rate not to exceed 1% on charges of rent for every occupancy on or after July 1, 2003 but before July 1, 2004, and not to exceed 3% on charges of rent for every occupancy on or after July 1, 2004, of a room or rooms in a hotel subject to taxation pursuant to subsection (d) of section 3 of P.L.1966, c.30 (C.54:32B-3). An ordinance so adopted may also require that unpaid taxes under this section shall be subject to interest at the rate of 5% per annum.

A tax imposed under this section shall be in addition to any other tax or fee imposed pursuant to statute or local ordinance or resolution by any governmental entity upon the occupancy of a hotel room.

A copy of an ordinance adopted pursuant to this section shall be transmitted upon adoption or amendment to the State Treasurer, together with a list of the names and addresses of all of the hotels and motels located in the municipality. An ordinance so adopted or any amendment thereto shall provide that the tax provisions of the ordinance or any amendment to the tax provisions shall take effect on the first day of the first full month occurring 30 days after the date of transmittal to the State Treasurer for ordinances adopted in calendar year 2003 and on the first day of the first full month occurring 90 days after the date of transmittal to the State Treasurer for ordinances adopted in calendar year 2004 and thereafter.

A municipality that has adopted an ordinance pursuant to this section shall annually provide to the State Treasurer, not later than January 1 of each year, a list of the names and addresses of all of the hotels and motels located in the municipality. A municipality shall also provide to the State Treasurer the name and address of any hotel or motel that commences operation after January 1 of any year.

2. Section 7 of P.L.2003, c.114 (C.40:48F-5) is amended to read as follows:

C.40:48F-5 Collection, administration of tax.

7. a. The Director of the Division of Taxation shall collect and administer any tax imposed pursuant to the provisions of section 3 of P.L.2003, c.114 (C.40:48F-1). In carrying out the provisions of this section, the director shall have all the powers granted in P.L.1966, c.30 (C.54:32B-1 et seq.).

b. The director shall determine and certify to the State Treasurer on a quarterly or more frequent basis, as prescribed by the State Treasurer, the amount of revenues collected in each municipality pursuant to section 3 of P.L.2003, c.114 (C.40:48F-1).

c. The State Treasurer, upon the certification of the director and upon the warrant of the State Comptroller, shall pay and distribute on a quarterly or more frequent basis, as prescribed by the State Treasurer, to each municipality the amount of revenues determined and certified under subsection b. of this section. The State Treasurer shall include with each distribution of tax revenue a list of all of the hotels and motels in the municipality that submitted municipal occupancy tax revenue to the State as required in sub-

section a. of section 6 of P.L.2003, c.114 (C.40:48F-4) for the period comprising the hotel tax distribution.

d. A tax imposed pursuant to the provisions of section 3 of P.L.2003, c.114 (C.40:48F-1) shall be governed by the provisions of the "State Uniform Tax Procedure Law," R.S.54:48-1 et seq.

C.40:48F-6 Written notification of nonpayment of taxes; actions of municipality.

3. a. The State Treasurer shall annually provide to a municipality that has adopted an ordinance imposing the tax pursuant to section 3 of P.L.2003, c.114 (C.40:48F-1) written notification of nonpayment by a hotel or motel of taxes required to be paid under the ordinance. The written notification required by this section shall also authorize the municipality to act as the collection agent for the outstanding balance of taxes due and owing to it in place of the State Treasurer.

b. In the event that the tax authorized and imposed under section 3 of P.L.2003, c.114 (C.40:48F-1) is not paid as and when due by a hotel or motel, the unpaid balance, and any interest accruing thereon, shall be a lien on the parcel of real property comprising the hotel or motel in the same manner as all other unpaid municipal taxes, fees, or other charges. The lien shall be superior and paramount to the interest in such parcel of any owner, lessee, tenant, mortgagee, or other person, except the lien of municipal taxes and shall be on a parity with and deemed equal to the municipal lien on the parcel for unpaid property taxes due and owing in the same year.

A municipality shall file in the office of its tax collector a statement showing the amount and due date of the unpaid balance and identifying the lot and block number of the parcel of real property that comprises the delinquent hotel or motel. The lien shall be enforced as a municipal lien in the same manner as all other municipal liens are enforced.

C.40:48F-7 Rules, regulations.

4. The State Treasurer shall promulgate such rules and regulations necessary to effectuate the provisions of P.L.2010, c.55 (C.40:48F-6 et al.) not later than the first day of the fourth full month next following enactment thereof.

5. This act shall take effect immediately.

Approved August 18, 2010.

CHAPTER 56

AN ACT concerning the calculation for the reserve for uncollected taxes and amending N.J.S.40A:4-41.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. N.J.S.40A:4-41 is amended to read as follows:

Computation of reserve for uncollected taxes.

40A:4-41. a. For the purpose of determining the amount of the appropriation for "reserve for uncollected taxes" required to be included in each annual budget where less than 100% of current tax collections may be and are anticipated, anticipated cash receipts shall be as set forth in the budget of the current year, and in accordance with the limitations of statute for anticipated revenue from, surplus appropriated, miscellaneous revenues and receipts from delinquent taxes.

b. Receipts from the collection of taxes levied or to be levied in the municipality, or in the case of a county for general county purposes and payable in the fiscal year shall be anticipated in an amount which is not in excess of the percentage of taxes levied and payable during the next preceding fiscal year which was received in cash by the last day of the preceding fiscal year.

c. (1) For any municipality in which tax appeal judgments have been awarded to property owners from action of the county tax board pursuant to R.S.54:3-21 et seq., or the State tax court pursuant to R.S.54:48-1 et seq. in the preceding fiscal year, the governing body of the municipality may elect to determine the reserve for uncollected taxes by using the average of the percentages of taxes levied which were received in cash by the last day of each of the three preceding fiscal years. Election of this choice shall be made by resolution, approved by a majority vote of the full membership of the governing body prior to the introduction of the annual budget pursuant to N.J.S.40A:4-5.

(2) If tax appeal judgments of the county tax board pursuant to R.S.54:3-21 et seq., or the State tax court pursuant to R.S.54:48-1 et seq., result in tax reductions for the previous fiscal year, the governing body of the municipality may elect to calculate the current year reserve for uncollected taxes by reducing the certified tax levy of the prior year by the

amount of the tax levy adjustments resulting from those judgments. Election of this choice shall be made by resolution, approved by a majority vote of the full membership of the governing body prior to the introduction of the annual budget pursuant to N.J.S.40A:4-5.

d. The director may promulgate rules and regulations to permit a three-year average to be used to determine the amount required for the reserve for uncollected taxes for municipalities to which subsection c. of this section is not applicable.

2. Notwithstanding the requirements of paragraph (2) of subsection c. of N.J.S.40A:4-41, a municipality operating under the State fiscal year that has introduced, but not adopted, its budget for fiscal year 2011 prior to the effective date of P.L.2010, c.56 may adopt the resolution permitted by that paragraph prior to the adoption of the budget by the governing body.

3. This act shall take effect immediately.

Approved August 19, 2010.

CHAPTER 57

AN ACT concerning the development of offshore wind projects, amending and supplementing P.L.1999, c.23, amending P.L.2007, c.340, and supplementing P.L.2007, c.346 (C.34:1B-207 et seq.).

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Section 3 of P.L.1999, c.23 (C.48:3-51) is amended to read as follows:

C.48:3-51 Definitions relative to competition in the electric power, gas, solar energy and offshore wind industries.

3. As used in P.L.1999, c.23 (C.48:3-49 et al.):

"Assignee" means a person to which an electric public utility or another assignee assigns, sells or transfers, other than as security, all or a portion of its right to or interest in bondable transition property. Except as specifically provided in P.L.1999, c.23 (C.48:3-49 et al.), an assignee shall

not be subject to the public utility requirements of Title 48 or any rules or regulations adopted pursuant thereto;

"Basic gas supply service" means gas supply service that is provided to any customer that has not chosen an alternative gas supplier, whether or not the customer has received offers as to competitive supply options, including, but not limited to, any customer that cannot obtain such service for any reason, including non-payment for services. Basic gas supply service is not a competitive service and shall be fully regulated by the board;

"Basic generation service" or "BGS" means electric generation service that is provided, to any customer that has not chosen an alternative electric power supplier, whether or not the customer has received offers for competitive supply options, including, but not limited to, any customer that cannot obtain such service from an electric power supplier for any reason, including non-payment for services. Basic generation service is not a competitive service and shall be fully regulated by the board;

"Basic generation service provider" or "provider" means a provider of basic generation service;

"Basic generation service transition costs" means the amount by which the payments by an electric public utility for the procurement of power for basic generation service and related ancillary and administrative costs exceeds the net revenues from the basic generation service charge established by the board pursuant to section 9 of P.L.1999, c.23 (C.48:3-57) during the transition period, together with interest on the balance at the board-approved rate, that is reflected in a deferred balance account approved by the board in an order addressing the electric public utility's unbundled rates, stranded costs, and restructuring filings pursuant to P.L.1999, c.23 (C.48:3-49 et al.). Basic generation service transition costs shall include, but are not limited to, costs of purchases from the spot market, bilateral contracts, contracts with non-utility generators, parting contracts with the purchaser of the electric public utility's divested generation assets, short-term advance purchases, and financial instruments such as hedging, forward contracts, and options. Basic generation service transition costs shall also include the payments by an electric public utility pursuant to a competitive procurement process for basic generation service supply during the transition period, and costs of any such process used to procure the basic generation service supply;

"Board" means the New Jersey Board of Public Utilities or any successor agency;

"Bondable stranded costs" means any stranded costs or basic generation service transition costs of an electric public utility approved by the

board for recovery pursuant to the provisions of P.L.1999, c.23 (C.48:3-49 et al.), together with, as approved by the board: (1) the cost of retiring existing debt or equity capital of the electric public utility, including accrued interest, premium and other fees, costs and charges relating thereto, with the proceeds of the financing of bondable transition property; (2) if requested by an electric public utility in its application for a bondable stranded costs rate order, federal, State and local tax liabilities associated with stranded costs recovery or basic generation service transition cost recovery or the transfer or financing of such property or both, including taxes, whose recovery period is modified by the effect of a stranded costs recovery order, a bondable stranded costs rate order or both; and (3) the costs incurred to issue, service or refinance transition bonds, including interest, acquisition or redemption premium, and other financing costs, whether paid upon issuance or over the life of the transition bonds, including, but not limited to, credit enhancements, service charges, overcollateralization, interest rate cap, swap or collar, yield maintenance, maturity guarantee or other hedging agreements, equity investments, operating costs and other related fees, costs and charges, or to assign, sell or otherwise transfer bondable transition property;

"Bondable stranded costs rate order" means one or more irrevocable written orders issued by the board pursuant to P.L.1999, c.23 (C.48:3-49 et al.) which determines the amount of bondable stranded costs and the initial amount of transition bond charges authorized to be imposed to recover such bondable stranded costs, including the costs to be financed from the proceeds of the transition bonds, as well as on-going costs associated with servicing and credit enhancing the transition bonds, and provides the electric public utility specific authority to issue or cause to be issued, directly or indirectly, transition bonds through a financing entity and related matters as provided in P.L.1999, c.23, which order shall become effective immediately upon the written consent of the related electric public utility to such order as provided in P.L.1999, c.23;

"Bondable transition property" means the property consisting of the irrevocable right to charge, collect and receive, and be paid from collections of, transition bond charges in the amount necessary to provide for the full recovery of bondable stranded costs which are determined to be recoverable in a bondable stranded costs rate order, all rights of the related electric public utility under such bondable stranded costs rate order including, without limitation, all rights to obtain periodic adjustments of the related transition bond charges pursuant to subsection b. of section 15 of P.L.1999,

c.23 (C.48:3-64), and all revenues, collections, payments, money and proceeds arising under, or with respect to, all of the foregoing;

"British thermal unit" or "Btu" means the amount of heat required to increase the temperature of one pound of water by one degree Fahrenheit;

"Broker" means a duly licensed electric power supplier that assumes the contractual and legal responsibility for the sale of electric generation service, transmission or other services to end-use retail customers, but does not take title to any of the power sold, or a duly licensed gas supplier that assumes the contractual and legal obligation to provide gas supply service to end-use retail customers, but does not take title to the gas;

"Buydown" means an arrangement or arrangements involving the buyer and seller in a given power purchase contract and, in some cases third parties, for consideration to be given by the buyer in order to effectuate a reduction in the pricing, or the restructuring of other terms to reduce the overall cost of the power contract, for the remaining succeeding period of the purchased power arrangement or arrangements;

"Buyout" means an arrangement or arrangements involving the buyer and seller in a given power purchase contract and, in some cases third parties, for consideration to be given by the buyer in order to effectuate a termination of such power purchase contract;

"Class I renewable energy" means electric energy produced from solar technologies, photovoltaic technologies, wind energy, fuel cells, geothermal technologies, wave or tidal action, and methane gas from landfills or a biomass facility, provided that the biomass is cultivated and harvested in a sustainable manner;

"Class II renewable energy" means electric energy produced at a resource recovery facility or hydropower facility, provided that such facility is located where retail competition is permitted and provided further that the Commissioner of Environmental Protection has determined that such facility meets the highest environmental standards and minimizes any impacts to the environment and local communities;

"Co-generation" means the sequential production of electricity and steam or other forms of useful energy used for industrial or commercial heating and cooling purposes;

"Combined heat and power facility" or "co-generation facility" means a generation facility which produces electric energy, steam, or other forms of useful energy such as heat, which are used for industrial or commercial heating or cooling purposes. A combined heat and power facility or co-generation facility shall not be considered a public utility;

"Competitive service" means any service offered by an electric public utility or a gas public utility that the board determines to be competitive pursuant to section 8 or section 10 of P.L.1999, c.23 (C.48:3-56 or C.48:3-58) or that is not regulated by the board;

"Commercial and industrial energy pricing class customer" or "CIEP class customer" means that group of non-residential customers with high peak demand, as determined by periodic board order, which either is eligible or which would be eligible, as determined by periodic board order, to receive funds from the Retail Margin Fund established pursuant to section 9 of P.L.1999, c.23 (C.48:3-57) and for which basic generation service is hourly-priced;

"Comprehensive resource analysis" means an analysis including, but not limited to, an assessment of existing market barriers to the implementation of energy efficiency and renewable technologies that are not or cannot be delivered to customers through a competitive marketplace;

"Customer" means any person that is an end user and is connected to any part of the transmission and distribution system within an electric public utility's service territory or a gas public utility's service territory within this State;

"Customer account service" means metering, billing, or such other administrative activity associated with maintaining a customer account;

"Demand side management" means the management of customer demand for energy service through the implementation of cost-effective energy efficiency technologies, including, but not limited to, installed conservation, load management and energy efficiency measures on and in the residential, commercial, industrial, institutional and governmental premises and facilities in this State;

"Electric generation service" means the provision of retail electric energy and capacity which is generated off-site from the location at which the consumption of such electric energy and capacity is metered for retail billing purposes, including agreements and arrangements related thereto;

"Electric power generator" means an entity that proposes to construct, own, lease or operate, or currently owns, leases or operates, an electric power production facility that will sell or does sell at least 90 percent of its output, either directly or through a marketer, to a customer or customers located at sites that are not on or contiguous to the site on which the facility will be located or is located. The designation of an entity as an electric power generator for the purposes of P.L.1999, c.23 (C.48:3-49 et al.) shall not, in and of itself, affect the entity's status as an exempt wholesale genera-

tor under the Public Utility Holding Company Act of 1935, 15 U.S.C. s.79 et seq.;

"Electric power supplier" means a person or entity that is duly licensed pursuant to the provisions of P.L.1999, c.23 (C.48:3-49 et al.) to offer and to assume the contractual and legal responsibility to provide electric generation service to retail customers, and includes load serving entities, marketers and brokers that offer or provide electric generation service to retail customers. The term excludes an electric public utility that provides electric generation service only as a basic generation service pursuant to section 9 of P.L.1999, c.23 (C.48:3-57);

"Electric public utility" means a public utility, as that term is defined in R.S.48:2-13, that transmits and distributes electricity to end users within this State;

"Electric related service" means a service that is directly related to the consumption of electricity by an end user, including, but not limited to, the installation of demand side management measures at the end user's premises, the maintenance, repair or replacement of appliances, lighting, motors or other energy-consuming devices at the end user's premises, and the provision of energy consumption measurement and billing services;

"Electronic signature" means an electronic sound, symbol or process, attached to, or logically associated with, a contract or other record, and executed or adopted by a person with the intent to sign the record;

"Energy agent" means a person that is duly registered pursuant to the provisions of P.L.1999, c.23 (C.48:3-49 et al.), that arranges the sale of retail electricity or electric related services or retail gas supply or gas related services between government aggregators or private aggregators and electric power suppliers or gas suppliers, but does not take title to the electric or gas sold;

"Energy consumer" means a business or residential consumer of electric generation service or gas supply service located within the territorial jurisdiction of a government aggregator;

"Energy efficiency portfolio standard" means a requirement to procure a specified amount of energy efficiency or demand side management resources as a means of managing and reducing energy usage and demand by customers;

"Energy year" or "EY" means the 12-month period from June 1st through May 31st and shall be numbered according to the calendar year in which it ends;

"Financing entity" means an electric public utility, a special purpose entity, or any other assignee of bondable transition property, which issues

transition bonds. Except as specifically provided in P.L.1999, c.23 (C.48:3-49 et al.), a financing entity which is not itself an electric public utility shall not be subject to the public utility requirements of Title 48 or any rules or regulations adopted pursuant thereto;

"Gas public utility" means a public utility, as that term is defined in R.S.48:2-13, that distributes gas to end users within this State;

"Gas related service" means a service that is directly related to the consumption of gas by an end user, including, but not limited to, the installation of demand side management measures at the end user's premises, the maintenance, repair or replacement of appliances or other energy-consuming devices at the end user's premises, and the provision of energy consumption measurement and billing services;

"Gas supplier" means a person that is duly licensed pursuant to the provisions of P.L.1999, c.23 (C.48:3-49 et al.) to offer and assume the contractual and legal obligation to provide gas supply service to retail customers, and includes, but is not limited to, marketers and brokers. A non-public utility affiliate of a public utility holding company may be a gas supplier, but a gas public utility or any subsidiary of a gas utility is not a gas supplier. In the event that a gas public utility is not part of a holding company legal structure, a related competitive business segment of that gas public utility may be a gas supplier, provided that related competitive business segment is structurally separated from the gas public utility, and provided that the interactions between the gas public utility and the related competitive business segment are subject to the affiliate relations standards adopted by the board pursuant to subsection k. of section 10 of P.L.1999, c.23 (C.48:3-58);

"Gas supply service" means the provision to customers of the retail commodity of gas, but does not include any regulated distribution service;

"Government aggregator" means any government entity subject to the requirements of the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.), the "Public School Contracts Law," N.J.S.18A:18A-1 et seq., or the "County College Contracts Law," P.L.1982, c.189 (C.18A:64A-25.1 et seq.), that enters into a written contract with a licensed electric power supplier or a licensed gas supplier for: (1) the provision of electric generation service, electric related service, gas supply service, or gas related service for its own use or the use of other government aggregators; or (2) if a municipal or county government, the provision of electric generation service or gas supply service on behalf of business or residential customers within its territorial jurisdiction;

"Government energy aggregation program" means a program and procedure pursuant to which a government aggregator enters into a written con-

tract for the provision of electric generation service or gas supply service on behalf of business or residential customers within its territorial jurisdiction;

"Governmental entity" means any federal, state, municipal, local or other governmental department, commission, board, agency, court, authority or instrumentality having competent jurisdiction;

"Greenhouse gas emissions portfolio standard" means a requirement that addresses or limits the amount of carbon dioxide emissions indirectly resulting from the use of electricity as applied to any electric power suppliers and basic generation service providers of electricity;

"Leakage" means an increase in greenhouse gas emissions related to generation sources located outside of the State that are not subject to a state, interstate or regional greenhouse gas emissions cap or standard that applies to generation sources located within the State;

"Market transition charge" means a charge imposed pursuant to section 13 of P.L.1999, c.23 (C.48:3-61) by an electric public utility, at a level determined by the board, on the electric public utility customers for a limited duration transition period to recover stranded costs created as a result of the introduction of electric power supply competition pursuant to the provisions of P.L.1999, c.23 (C.48:3-49 et al.);

"Marketer" means a duly licensed electric power supplier that takes title to electric energy and capacity, transmission and other services from electric power generators and other wholesale suppliers and then assumes the contractual and legal obligation to provide electric generation service, and may include transmission and other services, to an end-use retail customer or customers, or a duly licensed gas supplier that takes title to gas and then assumes the contractual and legal obligation to provide gas supply service to an end-use customer or customers;

"Net proceeds" means proceeds less transaction and other related costs as determined by the board;

"Net revenues" means revenues less related expenses, including applicable taxes, as determined by the board;

"Offshore wind energy" means electric energy produced by a qualified offshore wind project;

"Offshore wind renewable energy certificate" or "OREC" means a certificate, issued by the board or its designee, representing the environmental attributes of one megawatt hour of electric generation from a qualified offshore wind project;

"Off-site end use thermal energy services customer" means an end use customer that purchases thermal energy services from an on-site generation facility, combined heat and power facility, or co-generation facility, and that

is located on property that is separated from the property on which the on-site generation facility, combined heat and power facility, or co-generation facility is located by more than one easement, public thoroughfare, or transportation or utility-owned right-of-way;

"On-site generation facility" means a generation facility, and equipment and services appurtenant to electric sales by such facility to the end use customer located on the property or on property contiguous to the property on which the end user is located. An on-site generation facility shall not be considered a public utility. The property of the end use customer and the property on which the on-site generation facility is located shall be considered contiguous if they are geographically located next to each other, but may be otherwise separated by an easement, public thoroughfare, transportation or utility-owned right-of-way, or if the end use customer is purchasing thermal energy services produced by the on-site generation facility, for use for heating or cooling, or both, regardless of whether the customer is located on property that is separated from the property on which the on-site generation facility is located by more than one easement, public thoroughfare, or transportation or utility-owned right-of-way;

"Person" means an individual, partnership, corporation, association, trust, limited liability company, governmental entity or other legal entity;

"Private aggregator" means a non-government aggregator that is a duly-organized business or non-profit organization authorized to do business in this State that enters into a contract with a duly licensed electric power supplier for the purchase of electric energy and capacity, or with a duly licensed gas supplier for the purchase of gas supply service, on behalf of multiple end-use customers by combining the loads of those customers;

"Public utility holding company" means: (1) any company that, directly or indirectly, owns, controls, or holds with power to vote, ten percent or more of the outstanding voting securities of an electric public utility or a gas public utility or of a company which is a public utility holding company by virtue of this definition, unless the Securities and Exchange Commission, or its successor, by order declares such company not to be a public utility holding company under the Public Utility Holding Company Act of 1935, 15 U.S.C. s.79 et seq., or its successor; or (2) any person that the Securities and Exchange Commission, or its successor, determines, after notice and opportunity for hearing, directly or indirectly, to exercise, either alone or pursuant to an arrangement or understanding with one or more other persons, such a controlling influence over the management or policies of an electric public utility or a gas public utility or public utility holding company as to make it necessary or appropriate in the public interest or for

the protection of investors or consumers that such person be subject to the obligations, duties, and liabilities imposed in the Public Utility Holding Company Act of 1935 or its successor;

"Qualified offshore wind project" means a wind turbine electricity generation facility in the Atlantic Ocean and connected to the electric transmission system in this State, and includes the associated transmission-related interconnection facilities and equipment, and approved by the board pursuant to section 3 of P.L.2010, c.57 (C.48:3-87.1);

"Regulatory asset" means an asset recorded on the books of an electric public utility or gas public utility pursuant to the Statement of Financial Accounting Standards, No. 71, entitled "Accounting for the Effects of Certain Types of Regulation," or any successor standard and as deemed recoverable by the board;

"Related competitive business segment of an electric public utility or gas public utility" means any business venture of an electric public utility or gas public utility including, but not limited to, functionally separate business units, joint ventures, and partnerships, that offers to provide or provides competitive services;

"Related competitive business segment of a public utility holding company" means any business venture of a public utility holding company, including, but not limited to, functionally separate business units, joint ventures, and partnerships and subsidiaries, that offers to provide or provides competitive services, but does not include any related competitive business segments of an electric public utility or gas public utility;

"Renewable energy certificate" or "REC" means a certificate representing the environmental benefits or attributes of one megawatt-hour of generation from a generating facility that produces Class I or Class II renewable energy, but shall not include a solar renewable energy certificate or an offshore wind renewable energy certificate;

"Resource recovery facility" means a solid waste facility constructed and operated for the incineration of solid waste for energy production and the recovery of metals and other materials for reuse;

"Restructuring related costs" means reasonably incurred costs directly related to the restructuring of the electric power industry, including the closure, sale, functional separation and divestiture of generation and other competitive utility assets by a public utility, or the provision of competitive services as such costs are determined by the board, and which are not stranded costs as defined in P.L.1999, c.23 (C.48:3-49 et al.) but may include, but not be limited to, investments in management information systems, and which shall include expenses related to employees affected by

restructuring which result in efficiencies and which result in benefits to ratepayers, such as training or retraining at the level equivalent to one year's training at a vocational or technical school or county community college, the provision of severance pay of two weeks of base pay for each year of full-time employment, and a maximum of 24 months' continued health care coverage. Except as to expenses related to employees affected by restructuring, "restructuring related costs" shall not include going forward costs;

"Retail choice" means the ability of retail customers to shop for electric generation or gas supply service from electric power or gas suppliers, or opt to receive basic generation service or basic gas service, and the ability of an electric power or gas supplier to offer electric generation service or gas supply service to retail customers, consistent with the provisions of P.L.1999, c.23 (C.48:3-49 et al.);

"Retail margin" means an amount, reflecting differences in prices that electric power suppliers and electric public utilities may charge in providing electric generation service and basic generation service, respectively, to retail customers, excluding residential customers, which the board may authorize to be charged to categories of basic generation service customers of electric public utilities in this State, other than residential customers, under the board's continuing regulation of basic generation service pursuant to sections 3 and 9 of P.L.1999, c.23 (C.48:3-51 and 48:3-57), for the purpose of promoting a competitive retail market for the supply of electricity;

"Shopping credit" means an amount deducted from the bill of an electric public utility customer to reflect the fact that such customer has switched to an electric power supplier and no longer takes basic generation service from the electric public utility;

"Social program" means a program implemented with board approval to provide assistance to a group of disadvantaged customers, to provide protection to consumers, or to accomplish a particular societal goal, and includes, but is not limited to, the winter moratorium program, utility practices concerning "bad debt" customers, low income assistance, deferred payment plans, weatherization programs, and late payment and deposit policies, but does not include any demand side management program or any environmental requirements or controls;

"Societal benefits charge" means a charge imposed by an electric public utility, at a level determined by the board, pursuant to, and in accordance with, section 12 of P.L.1999, c.23 (C.48:3-60);

"Solar alternative compliance payment" or "SACP" means a payment of a certain dollar amount per megawatt hour (MWh) which an electric power supplier or provider may submit to the board in order to comply with

the solar electric generation requirements under section 38 of P.L.1999, c.23 (C.48:3-87);

"Solar renewable energy certificate" or "SREC" means a certificate issued by the board or its designee, representing one megawatt hour (MWh) of solar energy that is generated by a facility connected to the distribution system in this State and has value based upon, and driven by, the energy market;

"Stranded cost" means the amount by which the net cost of an electric public utility's electric generating assets or electric power purchase commitments, as determined by the board consistent with the provisions of P.L.1999, c.23 (C.48:3-49 et al.), exceeds the market value of those assets or contractual commitments in a competitive supply marketplace and the costs of buydowns or buyouts of power purchase contracts;

"Stranded costs recovery order" means each order issued by the board in accordance with subsection c. of section 13 of P.L.1999, c.23 (C.48:3-61) which sets forth the amount of stranded costs, if any, the board has determined an electric public utility is eligible to recover and collect in accordance with the standards set forth in section 13 of P.L.1999, c.23 (C.48:3-61) and the recovery mechanisms therefor;

"Thermal efficiency" means the useful electric energy output of a facility, plus the useful thermal energy output of the facility, expressed as a percentage of the total energy input to the facility;

"Transition bond charge" means a charge, expressed as an amount per kilowatt hour, that is authorized by and imposed on electric public utility ratepayers pursuant to a bondable stranded costs rate order, as modified at any time pursuant to the provisions of P.L.1999, c.23 (C.48:3-49 et al.);

"Transition bonds" means bonds, notes, certificates of participation or beneficial interest or other evidences of indebtedness or ownership issued pursuant to an indenture, contract or other agreement of an electric public utility or a financing entity, the proceeds of which are used, directly or indirectly, to recover, finance or refinance bondable stranded costs and which are, directly or indirectly, secured by or payable from bondable transition property. References in P.L.1999, c.23 (C.48:3-49 et al.) to principal, interest, and acquisition or redemption premium with respect to transition bonds which are issued in the form of certificates of participation or beneficial interest or other evidences of ownership shall refer to the comparable payments on such securities;

"Transition period" means the period from August 1, 1999 through July 31, 2003;

"Transmission and distribution system" means, with respect to an electric public utility, any facility or equipment that is used for the transmission, distribution or delivery of electricity to the customers of the electric public utility including, but not limited to, the land, structures, meters, lines, switches and all other appurtenances thereof and thereto, owned or controlled by the electric public utility within this State; and

"Universal service" means any service approved by the board with the purpose of assisting low-income residential customers in obtaining or retaining electric generation or delivery service.

2. Section 38 of P.L.1999, c.23 (C.48:3-87) is amended to read as follows:

C.48:3-87 Environmental disclosure requirements; standards; rules.

38. a. The board shall require an electric power supplier or basic generation service provider to disclose on a customer's bill or on customer contracts or marketing materials, a uniform, common set of information about the environmental characteristics of the energy purchased by the customer, including, but not limited to:

(1) Its fuel mix, including categories for oil, gas, nuclear, coal, solar, hydroelectric, wind and biomass, or a regional average determined by the board;

(2) Its emissions, in pounds per megawatt hour, of sulfur dioxide, carbon dioxide, oxides of nitrogen, and any other pollutant that the board may determine to pose an environmental or health hazard, or an emissions default to be determined by the board; and

(3) Any discrete emission reduction retired pursuant to rules and regulations adopted pursuant to P.L.1995, c.188.

b. Notwithstanding any provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the board shall initiate a proceeding and shall adopt, in consultation with the Department of Environmental Protection, after notice and opportunity for public comment and public hearing, interim standards to implement this disclosure requirement, including, but not limited to:

(1) A methodology for disclosure of emissions based on output pounds per megawatt hour;

(2) Benchmarks for all suppliers and basic generation service providers to use in disclosing emissions that will enable consumers to perform a meaningful comparison with a supplier's or basic generation service provider's emission levels; and

(3) A uniform emissions disclosure format that is graphic in nature and easily understandable by consumers. The board shall periodically review the disclosure requirements to determine if revisions to the environmental disclosure system as implemented are necessary.

Such standards shall be effective as regulations immediately upon filing with the Office of Administrative Law and shall be effective for a period not to exceed 18 months, and may, thereafter, be amended, adopted or readopted by the board in accordance with the provisions of the "Administrative Procedure Act."

c. (1) The board may adopt, in consultation with the Department of Environmental Protection, after notice and opportunity for public comment, an emissions portfolio standard applicable to all electric power suppliers and basic generation service providers, upon a finding that:

(a) The standard is necessary as part of a plan to enable the State to meet federal Clean Air Act or State ambient air quality standards; and

(b) Actions at the regional or federal level cannot reasonably be expected to achieve the compliance with the federal standards.

(2) By July 1, 2009, the board shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), a greenhouse gas emissions portfolio standard to mitigate leakage or another regulatory mechanism to mitigate leakage applicable to all electric power suppliers and basic generation service providers that provide electricity to customers within the State. The greenhouse gas emissions portfolio standard or any other regulatory mechanism to mitigate leakage shall:

(a) Allow a transition period, either before or after the effective date of the regulation to mitigate leakage, for a basic generation service provider or electric power supplier to either meet the emissions portfolio standard or other regulatory mechanism to mitigate leakage, or to transfer any customer to a basic generation service provider or electric power supplier that meets the emissions portfolio standard or other regulatory mechanism to mitigate leakage. If the transition period allowed pursuant to this subparagraph occurs after the implementation of an emissions portfolio standard or other regulatory mechanism to mitigate leakage, the transition period shall be no longer than three years; and

(b) Exempt the provision of basic generation service pursuant to a basic generation service purchase and sale agreement effective prior to the date of the regulation.

Unless the Attorney General or the Attorney General's designee determines that a greenhouse gas emissions portfolio standard would unconstitutionally burden interstate commerce or would be preempted by federal law,

the adoption by the board of an electric energy efficiency portfolio standard pursuant to subsection g. of this section, a gas energy efficiency portfolio standard pursuant to subsection h. of this section, or any other enhanced energy efficiency policies to mitigate leakage shall not be considered sufficient to fulfill the requirement of this subsection for the adoption of a greenhouse gas emissions portfolio standard or any other regulatory mechanism to mitigate leakage.

d. Notwithstanding any provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the board shall initiate a proceeding and shall adopt, after notice, provision of the opportunity for comment, and public hearing, renewable energy portfolio standards that shall require:

(1) that two and one-half percent of the kilowatt hours sold in this State by each electric power supplier and each basic generation service provider be from Class I or Class II renewable energy sources;

(2) beginning on January 1, 2001, that one-half of one percent of the kilowatt hours sold in this State by each electric power supplier and each basic generation service provider be from Class I renewable energy sources. The board shall increase the required percentage for Class I renewable energy sources so that by January 1, 2006, one percent of the kilowatt hours sold in this State by each electric power supplier and each basic generation service provider shall be from Class I renewable energy sources and shall additionally increase the required percentage for Class I renewable energy sources by one-half of one percent each year until January 1, 2012, when four percent of the kilowatt hours sold in this State by each electric power supplier and each basic generation service provider shall be from Class I renewable energy sources.

An electric power supplier or basic generation service provider may satisfy the requirements of this subsection by participating in a renewable energy trading program approved by the board in consultation with the Department of Environmental Protection;

(3) that the board establish a multi-year schedule, applicable to each electric power supplier or basic generation service provider in this State, beginning with the one-year period commencing on June 1, 2010, and continuing for each subsequent one-year period up to and including, the one-year period commencing on June 1, 2025, that requires suppliers or providers to purchase at least the following number of kilowatt-hours from solar electric power generators in this State:

EY 2011	306 Gigawatthours (Gwhrs)
EY 2012	442 Gwhrs

EY 2013	596 Gwhrs
EY 2014	772 Gwhrs
EY 2015	965 Gwhrs
EY 2016	1,150 Gwhrs
EY 2017	1,357 Gwhrs
EY 2018	1,591 Gwhrs
EY 2019	1,858 Gwhrs
EY 2020	2,164 Gwhrs
EY 2021	2,518 Gwhrs
EY 2022	2,928 Gwhrs
EY 2023	3,433 Gwhrs
EY 2024	3,989 Gwhrs
EY 2025	4,610 Gwhrs
EY 2026	5,316 Gwhrs

EY 2027, and for every energy year thereafter, at least 5,316 Gwhrs per energy year to reflect an increasing number of kilowatt-hours to be purchased by suppliers or providers from solar electric power generators in this State, and to establish a framework within which suppliers and providers shall purchase at least 2,518 Gwhrs in the energy year 2021 and 5,316 Gwhrs in the energy year 2026 from solar electric power generators in this State, provided, however, that the number of solar kilowatt-hours required to be purchased by each supplier or provider, when expressed as a percentage of the total number of solar kilowatt-hours purchased in this State, shall be equivalent to each supplier's or provider's proportionate share of the total number of kilowatt-hours sold in this State by all suppliers and providers.

The solar renewable portfolio standards requirements in paragraph (3) of this subsection shall automatically increase by 20% for the remainder of the schedule in the event that the following two conditions are met: (a) the number of SRECs generated meets or exceeds the requirement for three consecutive reporting years, starting with energy year 2013; and (b) the average SREC price for all SRECs purchased by entities with renewable energy portfolio standards obligations has decreased in the same three consecutive reporting years. The board shall exempt providers' existing supply contracts that are: (a) effective prior to the date of P.L.2009, c.289; or (b) effective prior to any future increase in the solar renewable portfolio standard beyond the multi-year schedule established in paragraph (3) of this subsection. This exemption shall apply to the number of SRECs that exceeds the number mandated by the solar renewable portfolio standards requirements that were in effect on the date that the providers executed their existing supply contracts. This limited exemption for providers' existing

supply contracts shall not be construed to lower the Statewide solar purchase requirements set forth in paragraph (3) of this subsection. Such incremental new requirements shall be distributed over the electric power suppliers and providers not subject to the existing supply contract exemption until such time as existing supply contracts expire and all suppliers are subject to the new requirement.

An electric power supplier or basic generation service provider may satisfy the requirements of this subsection by participating in a renewable energy trading program approved by the board in consultation with the Department of Environmental Protection, or compliance with the requirements of this subsection may be demonstrated to the board by suppliers or providers through the purchase of SRECs.

The renewable energy portfolio standards adopted by the board pursuant to paragraphs (1) and (2) of this subsection shall be effective as regulations immediately upon filing with the Office of Administrative Law and shall be effective for a period not to exceed 18 months, and may, thereafter, be amended, adopted or readopted by the board in accordance with the provisions of the "Administrative Procedure Act."

The renewable energy portfolio standards adopted by the board pursuant to paragraph (3) of this subsection shall be effective as regulations immediately upon filing with the Office of Administrative Law and shall be effective for a period not to exceed 30 months after such filing, and shall, thereafter, be amended, adopted or readopted by the board in accordance with the "Administrative Procedure Act"; and

(4) within 180 days after the date of enactment of P.L.2010, c.57 (C.48:3-87.1 et al.), that the board establish an offshore wind renewable energy certificate program to require that a percentage of the kilowatt hours sold in this State by each electric power supplier and each basic generation service provider be from offshore wind energy in order to support at least 1,100 megawatts of generation from qualified offshore wind projects.

The percentage established by the board pursuant to this paragraph shall serve as an offset to the renewable energy portfolio standard established pursuant to paragraphs (1) and (2) of this subsection and shall reduce the corresponding Class I renewable energy requirement.

The percentage established by the board pursuant to this paragraph shall reflect the projected OREC production of each qualified offshore wind project, approved by the board pursuant to section 3 of P.L.2010, c.57 (C.48:3-87.1), for twenty years from the commercial operation start date of the qualified offshore wind project which production projection and OREC purchase requirement, once approved by the board, shall not be subject to reduction.

An electric power supplier or basic generation service provider shall comply with the OREC program established pursuant to this paragraph through the purchase of offshore wind renewable energy certificates at a price and for the time period required by the board. In the event there are insufficient offshore wind renewable energy certificates available, the electric power supplier or basic generation service provider shall pay an offshore wind alternative compliance payment established by the board. Any offshore wind alternative compliance payments collected shall be refunded directly to the ratepayers by the electric public utilities.

The rules established by the board pursuant to this paragraph shall be effective as regulations immediately upon filing with the Office of Administrative Law and shall be effective for a period not to exceed 18 months, and may, thereafter, be amended, adopted or readopted by the board in accordance with the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

e. Notwithstanding any provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the board shall initiate a proceeding and shall adopt, after notice, provision of the opportunity for comment, and public hearing:

(1) net metering standards for electric power suppliers and basic generation service providers. The standards shall require electric power suppliers and basic generation service providers to offer net metering at nondiscriminatory rates to industrial, large commercial, residential and small commercial customers, as those customers are classified or defined by the board, that generate electricity, on the customer's side of the meter, using a Class I renewable energy source, for the net amount of electricity supplied by the electric power supplier or basic generation service provider over an annualized period. Systems of any sized capacity, as measured in watts, are eligible for net metering. If the amount of electricity generated by the customer-generator, plus any kilowatt hour credits held over from the previous billing periods, exceeds the electricity supplied by the electric power supplier or basic generation service provider, then the electric power supplier or basic generation service provider, as the case may be, shall credit the customer-generator for the excess kilowatt hours until the end of the annualized period at which point the customer-generator will be compensated for any remaining credits or, if the customer-generator chooses, credit the customer-generator on a real-time basis, at the electric power supplier's or basic generation service provider's avoided cost of wholesale power or the PJM electric power pool's real-time locational marginal pricing rate, adjusted for losses, for the respective zone in the PJM electric power pool.

Alternatively, the customer-generator may execute a bilateral agreement with an electric power supplier or basic generation service provider for the sale and purchase of the customer-generator's excess generation. The customer-generator may be credited on a real-time basis, so long as the customer-generator follows applicable rules prescribed by the PJM electric power pool for its capacity requirements for the net amount of electricity supplied by the electric power supplier or basic generation service provider. The board may authorize an electric power supplier or basic generation service provider to cease offering net metering whenever the total rated generating capacity owned and operated by net metering customer-generators Statewide equals 2.5 percent of the State's peak electricity demand;

(2) safety and power quality interconnection standards for Class I renewable energy source systems used by a customer-generator that shall be eligible for net metering.

Such standards or rules shall take into consideration the goals of the New Jersey Energy Master Plan, applicable industry standards, and the standards of other states and the Institute of Electrical and Electronic Engineers. The board shall allow electric public utilities to recover the costs of any new net meters, upgraded net meters, system reinforcements or upgrades, and interconnection costs through either their regulated rates or from the net metering customer-generator; and

(3) credit or other incentive rules for generators using Class I renewable energy generation systems that connect to New Jersey's electric public utilities' distribution system but who do not net meter.

Such rules shall require the board or its designee to issue a credit or other incentive to those generators that do not use a net meter but otherwise generate electricity derived from a Class I renewable energy source and to issue an enhanced credit or other incentive, including, but not limited to, a solar renewable energy credit, to those generators that generate electricity derived from solar technologies.

Such standards or rules shall be effective as regulations immediately upon filing with the Office of Administrative Law and shall be effective for a period not to exceed 18 months, and may, thereafter, be amended, adopted or readopted by the board in accordance with the provisions of the "Administrative Procedure Act."

f. The board may assess, by written order and after notice and opportunity for comment, a separate fee to cover the cost of implementing and overseeing an emission disclosure system or emission portfolio standard, which fee shall be assessed based on an electric power supplier's or basic generation service provider's share of the retail electricity supply market. The board

shall not impose a fee for the cost of implementing and overseeing a greenhouse gas emissions portfolio standard adopted pursuant to paragraph (2) of subsection c. of this section, the electric energy efficiency portfolio standard adopted pursuant to subsection g. of this section, or the gas energy efficiency portfolio standard adopted pursuant to subsection h. of this section.

g. The board may adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), an electric energy efficiency portfolio standard that may require each electric public utility to implement energy efficiency measures that reduce electricity usage in the State by 2020 to a level that is 20 percent below the usage projected by the board in the absence of such a standard. Nothing in this section shall be construed to prevent an electric public utility from meeting the requirements of this section by contracting with another entity for the performance of the requirements.

h. The board may adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), a gas energy efficiency portfolio standard that may require each gas public utility to implement energy efficiency measures that reduce natural gas usage for heating in the State by 2020 to a level that is 20 percent below the usage projected by the board in the absence of such a standard. Nothing in this section shall be construed to prevent a gas public utility from meeting the requirements of this section by contracting with another entity for the performance of the requirements.

i. After the board establishes a schedule of solar kilowatt-hour sale or purchase requirements pursuant to paragraph (3) of subsection d. of this section, the board may initiate subsequent proceedings and adopt, after appropriate notice and opportunity for public comment and public hearing, increased minimum solar kilowatt-hour sale or purchase requirements, provided that the board shall not reduce previously established minimum solar kilowatt-hour sale or purchase requirements, or otherwise impose constraints that reduce the requirements by any means.

j. The board shall determine an appropriate level of solar alternative compliance payment, and establish a 15-year solar alternative compliance payment schedule, that permits each supplier or provider to submit an SACP to comply with the solar electric generation requirements of paragraph (3) of subsection d. of this section. The board may initiate subsequent proceedings and adopt, after appropriate notice and opportunity for public comment and public hearing, an increase in solar alternative compliance payments, provided that the board shall not reduce previously established levels of solar alternative compliance payments, nor shall the board provide relief from the obligation of payment of the SACP by the electric power suppliers or basic generation service providers in any form. Any

SACP payments collected shall be refunded directly to the ratepayers by the electric public utilities.

k. The board may allow electric public utilities to offer long-term contracts and other means of financing, including but not limited to loans, for the purchase of SRECs and the resale of SRECs to suppliers or providers or others, provided that after such contracts have been approved by the board, the board's approvals shall not be modified by subsequent board orders.

l. The board shall implement its responsibilities under the provisions of this section in such a manner as to:

(1) place greater reliance on competitive markets, with the explicit goal of encouraging and ensuring the emergence of new entrants that can foster innovations and price competition;

(2) maintain adequate regulatory authority over non-competitive public utility services;

(3) consider alternative forms of regulation in order to address changes in the technology and structure of electric public utilities;

(4) promote energy efficiency and Class I renewable energy market development, taking into consideration environmental benefits and market barriers;

(5) make energy services more affordable for low and moderate income customers;

(6) attempt to transform the renewable energy market into one that can move forward without subsidies from the State or public utilities;

(7) achieve the goals put forth under the renewable energy portfolio standards;

(8) promote the lowest cost to ratepayers; and

(9) allow all market segments to participate.

m. The board shall ensure the availability of financial incentives under its jurisdiction, including, but not limited to, long-term contracts, loans, SRECs, or other financial support, to ensure market diversity, competition, and appropriate coverage across all ratepayer segments, including, but not limited to, residential, commercial, industrial, non-profit, farms, schools, and public entity customers.

n. For projects which are owned, or directly invested in, by a public utility pursuant to section 13 of P.L.2007, c.340 (C.48:3-98.1), the board shall determine the number of SRECs with which such projects shall be credited; and in determining such number the board shall ensure that the market for SRECs does not detrimentally affect the development of non-utility solar projects and shall consider how its determination may impact the ratepayers.

o. The board, in consultation with the Department of Environmental Protection, electric public utilities, the Division of Rate Counsel in, but not of, the Department of the Treasury, affected members of the solar energy industry, and relevant stakeholders, shall periodically consider increasing the renewable energy portfolio standards beyond the minimum amounts set forth in subsection d. of this section, taking into account the cost impacts and public benefits of such increases including, but not limited to:

(1) reductions in air pollution, water pollution, land disturbance, and greenhouse gas emissions;

(2) reductions in peak demand for electricity and natural gas, and the overall impact on the costs to customers of electricity and natural gas;

(3) increases in renewable energy development, manufacturing, investment, and job creation opportunities in this State; and

(4) reductions in State and national dependence on the use of fossil fuels.

p. Class I RECs shall be eligible for use in renewable energy portfolio standards compliance in the energy year in which they are generated, and for the following two energy years. SRECs and ORECs shall be eligible for use in renewable energy portfolio standards compliance in the energy year in which they are generated, and for the following two energy years.

C.48:3-87.1 Application to construct offshore wind project.

3. a. An entity seeking to construct an offshore wind project shall submit an application to the board for approval by the board as a qualified offshore wind project, which shall include, but need not be limited to, the following information:

(1) a detailed description of the project, including maps, surveys and other visual aides. This description shall include, but need not be limited to: the type, size and number of proposed turbines and foundations; the history to-date of the same type, size and manufacturer of installed turbines and foundations globally; and a detailed implementation plan that highlights key milestone activities during the permitting, financing, design, equipment solicitation, manufacturing, shipping, assembly, in-field installation, testing, equipment commissioning and service start-up;

(2) a completed financial analysis of the project including pro forma income statements, balance sheets, and cash flow projections for a 20-year period, including the internal rate of return, and a description and estimate of any State or federal tax benefits that may be associated with the project;

(3) the proposed method of financing the project, including identification of equity investors, fixed income investors, and any other sources of capital;

(4) documentation that the entity has applied for all eligible federal funds and programs available to offset the cost of the project or provide tax advantages;

(5) the projected electrical output and anticipated market prices over the anticipated life of the project, including a forecast of electricity revenues from the sale of energy derived from the project and capacity, as well as revenues anticipated by the sale of any ORECs, RECs, air emission credits or offsets, or any tradable environmental attributes created by the project;

(6) an operations and maintenance plan for the initial 20-year operation of the project that: details routine, intermittent and emergency protocols; identifies the primary risks to the built infrastructure and how the potential risks, including but not limited to hurricanes, lightning, fog, rogue wave occurrences, and exposed cabling, shall be mitigated; and identifies specific and concrete elements to ensure both construction and operational cost controls. This operations and maintenance plan shall be integrated into the financial analysis of the project, and shall identify the projected plan for the subsequent 20 years, following conclusion of the initial 20-year operations, assuming any necessary federal lease agreements are maintained and renewed;

(7) the anticipated carbon dioxide emissions impact of the project;

(8) a decommissioning plan for the project including provisions for financial assurance for decommissioning as required by the applicable State and federal governmental entities;

(9) a list of all State and federal regulatory agency approvals, permits, or other authorizations required pursuant to State and federal law for the offshore wind project, and copies of all submitted permit applications and any issued approvals and permits for the offshore wind project;

(10) a cost-benefit analysis for the project including at a minimum:

(a) a detailed input-output analysis of the impact of the project on income, employment wages, indirect business taxes, and output in the State with particular emphasis on in-State manufacturing employment;

(b) an explanation of the location, type and salary of employment opportunities to be created by the project with job totals expressed as full-time equivalent positions assuming 1,820 hours per year;

(c) an analysis of the anticipated environmental benefits and environmental impacts of the project; and

(d) an analysis of the potential impacts on residential and industrial ratepayers of electricity rates over the life of the project that may be caused by incorporating any State subsidy into rates;

(11) a proposed OREC pricing method and schedule for the board to consider;

(12) a timeline for the permitting, licensing and construction of the proposed offshore wind project;

(13) a plan for interconnection, including engineering specifications and costs; and

(14) any other information deemed necessary by the board in order to conduct a thorough evaluation of the proposal. The board may hire consultants or other experts if the board determines that obtaining such outside expertise would be beneficial to the review of the proposal.

b. (1) In considering an application for a qualified offshore wind project, submitted pursuant to subsection a. of this section, the board shall determine that the application satisfies the following conditions:

(a) the filing is consistent with the New Jersey energy master plan, adopted pursuant to section 12 of P.L.1977, c.146 (C.52:27F-14), in effect at the time the board is considering the application;

(b) the cost-benefit analysis, submitted pursuant to paragraph (10) of subsection a. of this section, demonstrates positive economic and environmental net benefits to the State;

(c) the financing mechanism is based upon the actual electrical output of the project, fairly balances the risks and rewards of the project between ratepayers and shareholders, and ensures that any costs of nonperformance, in either the construction or operational phase of the project, shall be borne by shareholders; and

(d) the entity proposing the project demonstrates financial integrity and sufficient access to capital to allow for a reasonable expectation of completion of construction of the project.

(2) In considering an application for a qualified offshore wind project, submitted pursuant to subsection a. of this section, the board shall also consider:

(a) the total level of subsidies to be paid by ratepayers for qualified offshore wind projects over the life of the project; and

(b) any other elements the board deems appropriate in conjunction with the application.

c. An order issued by the board to approve an application for a qualified offshore wind project pursuant to this section shall, at a minimum, include conditions to ensure the following:

(1) no OREC shall be paid until electricity is produced by the qualified offshore wind project;

(2) ORECs shall be paid on the actual electrical output of the project that is delivered into the transmission system of the State;

(3) ratepayers and the State shall be held harmless for any cost overruns associated with the project; and

(4) the applicant will reimburse the board and the State for all reasonable costs incurred for regulatory review of the project, including but not limited to consulting services, oversight, inspections, and audits.

An order issued by the board pursuant to this subsection shall specify the value of the OREC and the term of the order.

An order issued by the board pursuant to this subsection shall not be modified by subsequent board orders, unless the modifications are jointly agreed to by the parties.

d. The board shall review and approve, conditionally approve, or deny an application submitted pursuant to this section within 180 days after the date a complete application is submitted to the board.

C.48:3-87.2 Approval of project by board.

4. The board may approve, subject to the project obtaining the necessary permits, approvals, and authorizations from the Department of Environmental Protection, a qualified wind energy project located in territorial waters offshore of a municipality in which casino gaming is authorized, and authorize offshore wind renewable energy certificates for that project. Any such project shall be a nominal 20 megawatts and no more than 25 megawatts in nameplate capacity and comply with the requirements set forth in section 3 of P.L.2010, c.57 (C.48:3-87.1).

5. Section 7 of P.L.2007, c.340 (C.26:2C-51) is amended to read as follows:

C.26:2C-51 Coordination in administration of programs; use of moneys.

7. a. The agencies administering programs established pursuant to this section shall maximize coordination in the administration of the programs to avoid overlap between the uses of the fund prescribed in this section.

b. Moneys in the fund, after appropriation annually for payment of administrative costs authorized pursuant to subsection c. of this section, shall be annually appropriated and used for the following purposes:

(1) Sixty percent shall be allocated to the New Jersey Economic Development Authority to provide grants and other forms of financial assistance to commercial, institutional, and industrial entities to support end-use energy efficiency projects and new, efficient electric generation facilities

that are state of the art, as determined by the department, including but not limited to energy efficiency and renewable energy applications, to develop combined heat and power production and other high efficiency electric generation facilities, to stimulate or reward investment in the development of innovative carbon emissions abatement technologies with significant carbon emissions reduction or avoidance potential, to develop qualified offshore wind projects pursuant to section 3 of P.L.2010, c.57 (C.48:3-87.1), and to provide financial assistance to manufacturers of equipment associated with qualified offshore wind projects. The authority, in consultation with the board and the department, shall determine: (a) the appropriate level of grants or other forms of financial assistance to be awarded to individual commercial, institutional, and industrial sectors and to individual projects within each of these sectors; (b) the evaluation criteria for selecting projects to be awarded grants or other forms of financial assistance, which criteria shall include the ability of the project to result in a measurable reduction of the emission of greenhouse gases or a measurable reduction in energy demand, provided, however, that neither the development of a new combined heat and power production facility, nor an increase in the electrical and thermal output of an existing combined heat and power production facility, shall be subject to the requirement to demonstrate such a measurable reduction; and (c) the process by which grants or other forms of financial assistance can be applied for and awarded including, if applicable, the payment terms and conditions for authority investments in certain projects with commercial viability;

(2) Twenty percent shall be allocated to the board to support programs that are designed to reduce electricity demand or costs to electricity customers in the low-income and moderate-income residential sector with a focus on urban areas, including efforts to address heat island effect and reduce impacts on ratepayers attributable to the implementation of P.L.2007, c.340 (C.26:2C-45 et al.). For the purposes of this paragraph, the board, in consultation with the authority and the department, shall determine the types of programs to be supported and the mechanism by which to quantify benefits to ensure that the supported programs result in a measurable reduction in energy demand;

(3) Ten percent shall be allocated to the department to support programs designed to promote local government efforts to plan, develop and implement measures to reduce greenhouse gas emissions, including but not limited to technical assistance to local governments, and the awarding of grants and other forms of assistance to local governments to conduct and implement energy efficiency, renewable energy, and distributed energy pro-

grams and land use planning where the grant or assistance results in a measurable reduction of the emission of greenhouse gases or a measurable reduction in energy demand. For the purpose of conducting any program pursuant to this paragraph, the department, in consultation with the authority and the board, shall determine: (a) the appropriate level of grants or other forms of financial assistance to be awarded to local governments; (b) the evaluation criteria for selecting projects to be awarded grants or other forms of financial assistance; (c) the process by which grants or other forms of financial assistance can be applied for and awarded; and (d) a mechanism by which to quantify benefits; and

(4) Ten percent shall be allocated to the department to support programs that enhance the stewardship and restoration of the State's forests and tidal marshes that provide important opportunities to sequester or reduce greenhouse gases.

c. (1) The department may use up to four percent of the total amount in the fund each year to pay for administrative costs justifiable and approved in the annual budget process, incurred by the department in administering the provisions of P.L.2007, c.340 (C.26:2C-45 et al.) and in administering programs to reduce the emissions of greenhouse gases including any obligations that may arise under subsection a. of section 11 of P.L.2007, c.340 (C.26:2C-55).

(2) The board may use up to two percent of the total amount in the fund each year to pay for administrative costs justifiable and approved in the annual budget process, incurred by the board in administering the provisions of P.L.2007, c.340 (C.26:2C-45 et al.) and in administering programs to reduce the emissions of greenhouse gases including any obligations that may arise under subsection a. of section 11 of P.L.2007, c.340 (C.26:2C-55).

(3) The New Jersey Economic Development Authority may use up to two percent of the total amount in the fund each year to pay for administrative costs justifiable and approved in the annual budget process, incurred by the authority in administering the provisions of P.L.2007, c.340 (C.26:2C-45 et al.) and in administering programs to reduce the emissions of greenhouse gases.

d. The State Comptroller shall conduct or supervise independent audit and fiscal oversight functions of the fund and its uses.

C.34:1B-209.4 Credit to business for wind energy facility; eligibility.

6. a. (1) A business, upon application to and approval from the authority, shall be allowed a credit of 100 percent of its capital investment, made

after the effective date of P.L.2010, c.57 (C.48:3-87.1 et al.) but prior to its submission of documentation pursuant to subsection c. of this section, in a qualified wind energy facility located within an eligible wind energy zone, pursuant to the restrictions and requirements of this section. To be eligible for any tax credits authorized under this section, a business shall demonstrate to the authority, at the time of application, that the State's financial support of the proposed capital investment in a qualified wind energy facility will yield a net positive benefit to the State. The value of all credits approved by the authority pursuant to this section may be up to $100,000,000, except as may be increased by the authority as set forth below; provided, however, that the combined value of all credits approved by the authority pursuant to P.L.2007, c.346 (C.34:1B-207 et seq.), P.L.2009, c.90 (C.52:27D-489a et al.), and P.L.2010, c.57 (C.48:3-87.1 et al.) shall not exceed $1,500,000,000. The authority shall monitor application and allocation activity under P.L.2007, c.346 after taking into account the allocation under P.L.2007, c.346 and if sufficient credits are available to those qualified business facilities for which applications have been filed or for which applications are reasonably anticipated, and if the chief executive officer judges certain qualified offshore wind projects to be meritorious, the aforementioned cap may, in the discretion of the chief executive officer, be exceeded for allocation to qualified wind energy facilities in such amounts as the chief executive officer deems reasonable, justified and appropriate.

(2) (a) A business, other than a tenant eligible pursuant to subparagraph (b) of this paragraph, shall make or acquire capital investments totaling not less than $50,000,000 in a qualified wind energy facility, at which the business, including tenants at the qualified wind energy facility, shall employ at least 300 new, full-time employees, to be eligible for a credit under this section. A business that acquires a qualified wind energy facility after the effective date of P.L.2010, c.57 (C.48:3-87.1 et al.) shall also be deemed to have acquired the capital investment made or acquired by the seller.

(b) A business that is a tenant in the qualified wind energy facility, the owner of which has made or acquired capital investments in the facility totaling more than $50,000,000, shall occupy a leased area of the qualified wind energy facility that represents at least $17,500,000 of the capital investment in the qualified wind energy facility at which at least 300 new, full-time employees in the aggregate are employed, to be eligible for a credit under this section. The amount of capital investment in a facility that a leased area represents shall be equal to that percentage of the owner's total capital investment in the facility that the percentage of net leasable area leased by the tenant is of the total net leasable area of the qualified business

facility. Capital investments made by a tenant shall be deemed to be included in the calculation of the capital investment made or acquired by the owner, but only to the extent necessary to meet the owner's minimum capital investment of $50,000,000. Capital investments made by a tenant and not allocated to meet the owner's minimum capital investment threshold of $50,000,000 shall be added to the amount of capital investment represented by the tenant's leased area in the qualified wind energy facility.

(c) The calculation of the number of new, full-time employees required pursuant to subparagraphs (a) and (b) of this paragraph may include the number of new, full-time positions resulting from an equipment supply coordination agreement with equipment manufacturers, suppliers, installers and operators associated with the supply chain required to support the qualified wind energy facility.

For the purposes of this paragraph, "full time employee" shall not include an employee who is a resident of another state and whose income is not subject to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., unless that state has entered into a reciprocity agreement with the State of New Jersey, provided that any employee whose work is provided pursuant to a collective bargaining agreement with the port district in the wind energy zone may be included.

(3) A business shall not be allowed a tax credit pursuant to this section if the business participates in a business employment incentive grant relating to the same capital and employees that qualify the business for this credit, or if the business receives assistance pursuant to the "Business Retention and Relocation Assistance Act," P.L.1996, c.25 (C.34:1B-112 et seq.). A business that is allowed a tax credit under this section shall not be eligible for incentives authorized pursuant to the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.).

(4) Full-time employment for an accounting or privilege period shall be determined as the average of the monthly full-time employment for the period.

b. A business shall apply for the credit within five years after the effective date of P.L.2007, c.346 (C.34:1B-207 et seq.), and a business shall submit its documentation for approval of its credit amount within eight years after the effective date of P.L.2007, c.346.

c. The credit allowed pursuant to this section shall be administered in accordance with the provisions of subsection c. of section 3 of P.L.2007, c.346 (C.34:1B-209) and section 33 of P.L.2009, c.90 (C.34:1B-209.1), except that all references therein to "qualified business facility" shall be

deemed to refer to "qualified wind energy facility," as that term is defined in subsection f. of this section.

d. The amount of the credit allowed pursuant to this section shall, except as otherwise provided, be equal to the capital investment made by the business, or the capital investment represented by the business' leased area, and shall be taken over a 10-year period, at the rate of one-tenth of the total amount of the business' credit for each tax accounting or privilege period of the business, beginning with the tax period in which the business is first approved by the authority as having met the investment capital and employment qualifications, subject to any disqualification as determined by annual review by the authority. In conducting its annual review, the authority may require a business to submit any information determined by the authority to be necessary and relevant to its review. The credit amount for any tax period ending after the date eight years after the effective date of P.L.2007, c.346 (C.34:1B-207 et seq.) during which the documentation of a business' credit amount remains unapproved shall be forfeited, although credit amounts for the remainder of the years of the 10-year credit period shall remain available. The amount of the credit allowed for a tax period to a business that is a tenant in a qualified wind energy facility shall not exceed the business' total lease payments for occupancy of the qualified wind energy facility for the tax period.

e. The authority shall adopt rules in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) as are necessary to implement this section, including but not limited to: examples of and the determination of capital investment; nature of businesses and employment positions constituting and participating in an equipment supply coordination agreement; determination of the types of businesses that may be eligible and expenses that may constitute capital improvements; promulgation of procedures and forms necessary to apply for a credit; and provisions for applicants to be charged an initial application fee, and ongoing service fees, to cover the administrative costs related to the credit.

The rules established by the authority pursuant to this subsection shall be effective immediately upon filing with the Office of Administrative Law and shall be effective for a period not to exceed 12 months and may, thereafter, be amended, adopted or readopted in accordance with the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

f. As used in this section: the terms "authority," "business," and "capital investment" shall have the same meanings as defined in section 2 of the "Urban Transit Hub Tax Credit Act," P.L.2007, c.346 (C.34:1B-208), except that all references therein to "qualified business facility" shall be

deemed to refer to "qualified wind energy facility" as defined in this subsection.

In addition, as used in this section:

"Equipment supply coordination agreement" means an agreement between a business and equipment manufacturer, supplier, installer, and operator that supports a qualified offshore wind project, or other wind energy project as determined by the authority, and that indicates the number of new, full-time jobs to be created by the agreement participants towards the employment requirement as set forth in paragraph (2) of subsection a. of this section.

"Qualified offshore wind project" means the same as the term is defined in section 3 of P.L.1999, c.23 (C.48:3-51).

"Qualified wind energy facility" means any building, complex of buildings, or structural components of buildings, including water access infrastructure, and all machinery and equipment used in the manufacturing, assembly, development or administration of component parts that support the development and operation of a qualified offshore wind project, or other wind energy project as determined by the authority, and that are located in a wind energy zone.

"Wind energy zone" means property located in the South Jersey Port District established pursuant to "The South Jersey Port Corporation Act," P.L.1968, c.60 (C.12:11A-1 et seq.).

7. This act shall take effect immediately.

Approved August 19, 2010.

CHAPTER 58

AN ACT creating a New Jersey Honor Guard Ribbon and supplementing chapter 15 of Title 38A of the New Jersey Statutes.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

C.38A:15-7 Creation of New Jersey Honor Guard Ribbon.

1. a. The Governor may present in the name of the State of New Jersey a New Jersey Honor Guard Ribbon of appropriate design to active members of the New Jersey National Guard, Honor Guard Retiree members and Contracted Civilian Buglers, who have served as Honor Guard Team Members

in the National Guard New Jersey Honor Guard Program, and Honor Guard personnel working at Brigadier General William C. Doyle Veterans' Cemetery, who have performed a minimum of 30 Honor Guard Service missions for our deceased veterans, honoring "Those Who Served."

b. A Bronze Star shall be awarded for subsequent total Honor Guard Mission Services of 130 within a two-year period. The award shall be displayed to the left of the Honor Guard Program symbol on the Honor Guard Ribbon.

c. A Silver Star shall be awarded for subsequent total Honor Guard Mission Services of 200 within a three-year period. The award shall be displayed to the right of the Honor Guard Program symbol on the Honor Guard Ribbon.

d. Administrative support personnel shall receive the Honor Guard Ribbon when they complete a minimum of nine months of service in support of the Honor Guard Program honoring "Those Who Served."

e. No more than one ribbon shall be awarded to any person, except that a ribbon that is lost, destroyed, or rendered unfit for use without fault or neglect on the part of the person to whom it was issued may be replaced.

f. Determination of eligibility for an Honor Guard ribbon shall be the responsibility of the Adjutant General or his designee.

2. This act shall take effect two months from the date of enactment, but the Department of Military and Veterans' Affairs may take such anticipatory administrative action in advance thereof as shall be necessary for the implementation of this act.

Approved August 23, 2010.

CHAPTER 59

AN ACT concerning Operation Recognition in the Department of Education and amending P.L.2001, c.302.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Section 1 of P.L.2001, c.302 (C.18A:7C-4.1) is amended to read as follows:

C.18A:7C-4.1 "Operation Recognition."

1. a. The Department of Education, in consultation with the Department of Military and Veterans' Affairs, shall establish a program which shall be known as "Operation Recognition." The purpose of Operation Recognition is to award State-endorsed high school diplomas to eligible veterans who left high school prior to graduation to enter United States military service.

b. A person shall be eligible to receive a State-endorsed diploma under Operation Recognition if the person:

(1) is an honorably discharged World War I veteran who served between April 6, 1917 and November 11, 1918, an honorably discharged World War II veteran who served between September 16, 1940 and December 31, 1946, an honorably discharged veteran of the Korean conflict who served between June 23, 1950 and January 31, 1955, or an honorably discharged veteran of the Vietnam conflict who served between December 31, 1960 and May 7, 1975; and

(2) attended a high school in the State but left prior to graduation in order to serve in the armed forces of the United States, and did not receive a high school diploma as a consequence of such service.

A State-endorsed diploma may be issued under Operation Recognition posthumously. A veteran who meets the eligibility criteria set forth in this section and who passed the General Educational Development Test, GED, may also receive a State-endorsed diploma under Operation Recognition.

c. A veteran who meets the eligibility criteria set forth in subsection b. of this section may apply to the Department of Education to receive a State-endorsed high school diploma. In the case of a veteran who meets the eligibility criteria set forth in subsection b. of this section but who is deceased, the family of the veteran may apply to the department to receive a State-endorsed high school diploma on behalf of the veteran. Upon approval of an application, the department shall issue a State-endorsed high school diploma to the veteran or the veteran's family, as appropriate. The diploma shall indicate the veteran's high school of attendance.

d. The Department of Education, in cooperation with the Department of Military and Veterans' Affairs, shall:

(1) develop an application procedure for obtaining a State-endorsed high school diploma under Operation Recognition, including a method for verifying military service and the high school which the veteran attended prior to military service;

(2) distribute applications for participation by veterans in Operation Recognition to school districts and to local veterans' organizations throughout the State; and

(3) provide information to any school district that is interested in hosting a diploma ceremony on or around Veterans' Day for veterans who received State-endorsed high school diplomas pursuant to Operation Recognition and attended a high school within the district.

e. For the purposes of this section, "veteran" means an honorably discharged officer, soldier, sailor, marine, airman, nurse or army field clerk who served in the active military or naval service of the United States in the wars and conflicts listed in subsection b. of this section. A "veteran" also means any honorably discharged member of the American Merchant Marine or the United States Coast Guard who served during the wars and conflicts listed in subsection b. of this section.

2. This act shall take effect immediately.

Approved August 23, 2010.

CHAPTER 60

AN ACT concerning the membership of the Veterans' Services Council and amending P.L.1948, c.448.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Section 22 of P.L.1948, c.448 (C.13:1B-20) is amended to read as follows:

C.13:1B-20 Veterans' Services Council.

22. There shall be within the Department of Military and Veterans' Affairs, a Veterans' Services Council which shall consist of twelve members and shall include no less than two women. The Deputy Commissioner of Veterans' Affairs shall serve as a nonvoting ex-officio member. Each member of the council shall be a veteran, and shall be appointed by the Governor, with the advice and consent of the Senate, for a term of four years, but for a term of three years for a term beginning after the effective date of P.L.2010, c.60, and shall serve until his successor has been appointed and has qualified, except that of the first appointments pursuant to P.L.1948, c.448, two shall be for a term of one year, two for two years, two for three years, and three for four years, and of the two members first appointed pur-

suant to P.L.2010, c.60, one shall serve for a term of two years and one shall serve for a term of three years. At no time shall a member be allowed to serve more than two terms in the aggregate. All appointments to the council shall be made in consultation with the leaders of all federally-chartered veterans' organizations in the State.

The members shall nominate a chairman by majority vote of the members, and six members shall constitute a majority. The nomination shall be sent to the Governor for approval. The chairman of the council shall be its presiding officer and shall serve until a successor has been nominated by the council and approved by the Governor.

Any vacancies in the membership of said council occurring other than by expiration of term shall be filled by the Governor, with the advice and consent of the Senate, for the unexpired term only. Any member of the council may be removed from office by the Governor, for cause, upon notice and opportunity to be heard. Any member who shall be absent for three meetings of the council without being excused for good cause by the chairman may, upon recommendation to the Governor by a majority vote of the members of the council, be removed from office by the Governor.

The members of the council shall serve without compensation but shall be reimbursed for necessary expenses incurred in the performance of their duties.

2. Section 23 of P.L.1948, c.448 (C.13:1B-21) is amended to read as follows:

C.13:1B-21 Powers and duties of Veterans' Services Council.

23. The Veterans' Services Council shall, subject to the approval of the commissioner, formulate comprehensive policies for the co-ordination of all services for the benefit of veterans and their dependents.

The council shall also:

a. Consult with and advise the commissioner and the director of the Division of Veterans' Services with respect to the work of the division.

b. Study the activities of the Division of Veterans' Services and hold hearings with respect thereto as it may deem necessary or desirable.

c. Report to the Governor and the Legislature annually, and at such other times as it may deem in the public interest, with respect to its findings and conclusions.

3. This act shall take effect immediately.

Approved August 23, 2010.

CHAPTER 61

AN ACT concerning bone marrow donation and designated as Jaden's Law, and supplementing Title 26 of the Revised Statutes.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

C.26:2H-12.59 Online brochure relative to bone marrow donation.

1. a. The Commissioner of Health and Senior Services shall prepare an online brochure for display on the Internet website of the Department of Health and Senior Services, based upon information derived from the National Marrow Donor Program, or NMDP, which may be downloaded by physicians and utilized by the commissioner for the purposes of subsection c. of this section, and shall be designed to inform patients of the option to become a bone marrow or peripheral blood stem cell, or PBSC, donor by registering with the NMDP and to answer common questions about bone marrow and peripheral blood stem cell, or PBSC, donation.

b. The brochure shall describe:

(1) the health benefits to the community from making a bone marrow or PBSC donation through the NMDP;

(2) how to register with the NMDP;

(3) the procedures for making a bone marrow or PBSC donation through the NMDP, including notice that there is no charge to the donor or the donor's family for making the donation;

(4) the circumstances and procedures by which a patient may receive a transfusion of the patient's previously donated blood; and

(5) any other aspects of bone marrow or PBSC donation that the commissioner deems appropriate for the purposes of this act.

c. The commissioner, within the limits of resources available to the Department of Health and Senior Services for this purpose, shall seek to promote awareness among physicians and the general public in this State about the option to become a bone marrow or PBSC donor. In doing so, the commissioner shall consult with at least the following: the Medical Society of New Jersey, the Institute of Medicine and Public Health of New Jersey, the NMDP, and other organizations that are seeking to increase bone marrow and PBSC donation among various ethnic groups within the State in need of these donations.

2. This act shall take effect on the 90th day following enactment.

Approved August 25, 2010.

CHAPTER 62

AN ACT authorizing the expenditure of funds by the New Jersey Environmental Infrastructure Trust for the purpose of making loans to eligible project sponsors to finance a portion of the cost of construction of environmental infrastructure projects, supplementing P.L.1985, c.334 (C.58:11B-1 et seq.), and making an appropriation.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. a. The New Jersey Environmental Infrastructure Trust, established pursuant to P.L.1985, c.334 (C.58:11B-1 et seq.), as amended and supplemented by P.L.1997, c.224 and amended by P.L.2004, c.111, is authorized to expend the aggregate sum of up to $821,412,500, and any unexpended balance of the aggregate expenditures authorized pursuant to section 1 of P.L.2000, c.93, section 1 of P.L.2001, c.224, section 1 of P.L.2002, c.71, section 1 of P.L.2003, c.159, section 1 of P.L.2004, c.110, section 1 of P.L.2005, c.197, section 1 of P.L.2006, c.67, section 1 of P.L.2007, c.140, section 1 of P.L.2008, c.67, and section 1 of P.L.2009, c.101 for the purpose of making loans, to the extent sufficient funds are available, to or on behalf of local government units or public water utilities (hereinafter referred to as "project sponsors") to finance all or a portion of the cost of construction of environmental infrastructure projects listed in sections 2 and 4 of this act.

b. The trust is authorized to increase the aggregate sums specified in subsection a. of this section by:

(1) the amounts of capitalized interest and the bond issuance expenses as provided in subsection b. of section 7 of this act;

(2) the amounts of reserve capacity expenses and debt service reserve fund requirements as provided in subsection c. of section 7 of this act;

(3) the interest earned on amounts deposited for project costs pending their distribution to project sponsors as provided in subsection d. of section 7 of this act;

(4) the amounts of the loan origination fee as provided in subsection e. of section 7 of this act; and

(5) the amount appropriated to the Department of Environmental Protection for the purpose of making zero interest or principal forgiveness loans pursuant to section 3 of P.L.2010, c.63 in connection with the project costs of a particular project sponsor, to the extent the priority ranking and

an insufficiency of funding prevents the department from making the loan as provided in subsection f. of section 7 of this act.

c. (1) Of the sums made available to the trust from the "Water Supply Trust Fund" established pursuant to subsection a. of section 15 of the "Water Supply Bond Act of 1981," (P.L.1981, c.261) pursuant to P.L.1997, c.223, the trust is authorized to transfer such amounts to the Department of Environmental Protection as needed for drinking water project loans pursuant to the "Safe Drinking Water Act Amendments of 1996" Pub.L.104-182, and any amendatory and supplementary acts thereto (hereinafter referred to as the "Federal Safe Drinking Water Act"), under terms and conditions established by the Commissioner of Environmental Protection and trust, and approved by the State Treasurer, which loans shall be jointly administered by the trust and department.

(2) Of the sums appropriated to the trust from the "Wastewater Treatment Trust Fund" established pursuant to section 15 of the "Wastewater Treatment Bond Act of 1985," (P.L.1985, c.329) pursuant to P.L.1987, c.198, the trust is authorized to transfer such amounts as needed to the Clean Water State Revolving Fund established pursuant to section 1 of P.L.2009, c.77 for the purposes of issuing loans or providing the State match as required for the award of the capitalization grants made available to the State for clean water projects pursuant to the "Water Quality Act of 1987" (33 U.S.C.s.1251 et seq.), and any amendatory and supplementary acts thereto (hereinafter referred to as the "Federal Clean Water Act").

(3) Of the sums appropriated to the trust from the "1992 Wastewater Treatment Trust Fund" established pursuant to section 27 of the "Green Acres, Clean Water, Farmland and Historic Preservation Bond Act of 1992," (P.L.1992, c.88) pursuant to P.L.1996, c.86, the trust is authorized to transfer such amounts as needed to the Clean Water State Revolving Fund for the purpose of providing the State match as required for the award of the capitalization grants made available to the State for clean water projects pursuant to the Federal Clean Water Act.

(4) Of the sums appropriated to the trust from the "Stormwater Management and Combined Sewer Overflow Abatement Fund" created pursuant to section 14 of the "Stormwater Management and Combined Sewer Overflow Abatement Bond Act of 1989," (P.L.1989, c.181) pursuant to P.L.1998, c.87, the trust is authorized to transfer such amounts as needed to the Clean Water State Revolving Fund for the purpose of providing the State match as required for the award of the capitalization grants made available to the State for clean water projects pursuant to the Federal Clean Water Act.

(5) Of the sums appropriated to the trust from the "2003 Water Resources and Wastewater Treatment Trust Fund" established pursuant to subsection b. of section 19 of the "Dam, Lake, Stream, Flood Control, Water Resources, and Wastewater Treatment Project Bond Act of 2003," (P.L.2003, c.162) pursuant to P.L.2004, c.110, the trust is authorized to transfer such amounts as needed to the Clean Water State Revolving Fund for the purpose of providing the State match as required for the award of the capitalization grants made available to the State for clean water projects pursuant to the Federal Clean Water Act.

(6) Of the sums appropriated to the trust from repayments of loans deposited in any account, including the "Clean Water State Revolving Fund," "Wastewater Treatment Fund," the "1992 Wastewater Treatment Fund," the "Water Supply Fund," the "Stormwater Management and Combined Sewer Overflow Abatement Fund" or the Drinking Water State Revolving Fund, as appropriate, pursuant to sections 11 and 12 of P.L.1995, c.219, sections 11 and 12 of P.L.1996, c.85, sections 11 and 12 of P.L.1997, c.221, sections 12 and 13 of P.L.1998, c.84, section 11 of P.L.1999, c.174, section 11 of P.L.2000, c.92, section 11 of P.L.2001, c.222, section 11 of P.L.2002, c.70, section 11 of P.L.2003, c.158, section 11 of P.L.2004, c.109, section 11 of P.L.2005, c.196, section 11 of P.L.2006, c.68, section 10 of P.L.2007, c.140, section 10 of P.L.2008, c.67 , and section 10 of P.L.2009, c.101 for deposit into one or more reserve funds established by the trust pursuant to section 11 of P.L.1985, c.334 (C.58:11B-11), the trust shall transfer to the respective fund of origin the unexpended balance of all such moneys no longer utilized by the trust for reserve fund purposes.

d. For the purposes of this act:

(1) "capitalized interest" means the amount equal to interest paid on trust bonds which is funded with trust bond proceeds and the earnings thereon;

(2) "issuance expenses" means and includes, but need not be limited to, the costs of financial document printing, bond insurance premiums or other credit enhancement, underwriters' discount, verification of financial calculations, the services of bond rating agencies and trustees, the employment of accountants, attorneys, financial advisors, loan servicing agents, registrars, and paying agents, and any other costs related to the issuance of trust bonds;

(3) "reserve capacity expenses" means those project costs for reserve capacity not eligible for loans under rules and regulations governing zero interest loans adopted by the Commissioner of Environmental Protection pursuant to section 4 of P.L.1985, c.329 but which are eligible for loans

from the trust in accordance with the rules and regulations adopted by the trust pursuant to section 27 of P.L.1985, c.334 (C.58:11B-27);

(4) "debt service reserve fund expenses" means the debt service reserve fund costs associated with reserve capacity expenses, water supply projects for which the project sponsors are public water utilities as provided in section 9 of P.L.1985, c.334 (C.58:11B-9), other drinking water projects not eligible for, or interested in, State or federal debt service reserve funds pursuant to the "Water Supply Bond Act of 1981," P.L.1981, c.261, as amended and supplemented by P.L.1997, c.223, and any clean water projects not eligible for, or interested in, State or federal debt service reserve funds from the Clean Water State Revolving Fund; and

(5) "loan origination fee" means the fee charged by the Department of Environmental Protection and financed under the trust loan to pay a portion of the costs incurred by the department in the implementation of the New Jersey Environmental Infrastructure Financing Program.

e. The trust is authorized to increase the loan amount in the future to compensate for a refunding of the issue, provided adequate savings are achieved, for the loans issued pursuant to P.L.1995, c.218, P.L.1996, c.87, P.L.1997, c.222, P.L.1998, c.85, P.L.1999, c.173, P.L.2000, c.93, P.L.2001, c.224, P.L.2002, c.71, P.L.2003, c.159, P.L.2004, c.110, P.L.2005, c.197, P.L.2006, c.67, P.L.2007, c.140, P.L.2008, c.67, P.L.2009, c.101, and P.L.2010, c.62.

2. a. (1) The New Jersey Environmental Infrastructure Trust is authorized to expend funds for the purpose of making supplemental loans to or on behalf of the project sponsors listed below for the following clean water environmental infrastructure projects:

Project Sponsor	**Project Number**	**Estimated Total Allowable Loan Amount**	**Estimated Allowable Trust Loan Amount**
Bergen County UA.	S340386-07-1	$525,000	$262,500
Camden County MUA	S340640-06,09, 11-1	$20,160,000	$10,080,000
Haledon Borough	S340173-01-1	$315,000	$157,500
Hamilton Township	S340898-03-1	$525,000	$262,500
Jersey City MUA	S340928-02-1	$3,885,000	$1,942,500
Madison Borough	S340715-04B-1	$420,000	$210,000
Medford Township	S340346-05-1	$3,780,000	$1,890,000
Montgomery Township	S340130-02-1	$10,815,000	$5,407,500

New Brunswick City	S340437-11-1	$1,890,000	$945,000
Pequannok Lincoln Park, and Fairfield SA	S340880-03-1	$2,835,000	$1,417,500
Wanaque Valley RSA	S340780-03-1	$4,830,000	$2,415,000
West Milford Township MUA	S340701-09-1	$1,050,000	$525,000
Total:		**$51,030,000**	**$25,515,000**

(2) The loans authorized in this subsection shall be made for the difference between the allowable loan amounts required by these projects based upon final building costs pursuant to subsection a. of section 7 of this act and the loan amounts certified by the chairman of the trust in State fiscal years 2002, 2004, 2008, 2009, and 2010 and for increased allowable costs as defined and determined in accordance with the rules and regulations adopted by the trust pursuant to section 27 of P.L.1985, c.334 (C.58:11B-27). The loans authorized in this subsection shall be made to or on behalf of the project sponsors listed, up to the individual amounts indicated and in the priority stated, to the extent sufficient funds are available, except as a project fails to meet the requirements of section 6 of this act.

(3) The loans authorized in this subsection shall have priority over the environmental infrastructure projects listed in subsection a. of section 4 of this act.

b. (1) The trust is authorized to expend funds for the purpose of making supplemental loans to or on behalf of the project sponsors listed below for the following drinking water environmental infrastructure projects:

Project Sponsor	**Project Number**	**Estimated Total Allowable Loan Amount**	**Estimated Allowable Trust Loan Amount**
Perth Amboy City	1216001-004-1	$2,730,000	$1,365,000
Sea Girt Borough	1344001-001,002-1	$7,770,000	$3,885,000
Total:		**$10,500,000**	**$5,250,000**

(2) The loans authorized in this subsection shall be made for the difference between the allowable loan amounts required by these projects based upon final building costs pursuant to subsection a. of section 7 of this act and the loan amounts certified by the chairman of the trust in State fiscal years 2007 and 2008, and for increased allowable costs as defined and determined in accordance with the rules and regulations adopted by the trust pursuant to section 27 of P.L.1985, c.334 (C.58:11B-27). The loans author-

ized in this subsection shall be made to or on behalf of the project sponsors listed, up to the individual amounts indicated and in the priority stated, to the extent sufficient funds are available, except as a project fails to meet the requirements of section 6 of this act.

(3) The loans authorized in this subsection shall have priority over the environmental infrastructure projects listed in subsection b. of section 4 of this act.

c. The trust is authorized to adjust the allowable trust loan amount for projects authorized in this section to between 25% and 75% of the total allowable loan amount.

3. a. The New Jersey Environmental Infrastructure Trust is authorized to make loans to or on behalf of the project sponsors for the clean water projects listed in subsection a. of section 2 and subsection a. of section 4 of this act up to the individual amounts indicated and in the priority stated, except as any such amount may be reduced by the trust pursuant to subsection a. of section 7 of this act, or if a project fails to meet the requirements of section 6 of this act. The trust is authorized to increase any such amount pursuant to subsection b., c., d., e. or f. of section 7 or section 8 of this act.

b. The trust is authorized to make loans to project sponsors for the drinking water projects listed in subsection b. of section 2 and subsection b. of section 4 of this act up to the individual amounts indicated and in the priority stated, except as any such amount may be reduced by the trust pursuant to subsection a. of section 7 of this act, or if a project fails to meet the requirements of section 6 of this act. The trust is authorized to increase any such amount pursuant to subsection b., c., d., e. or f. of section 7 or section 8 of this act.

4. a. The following environmental infrastructure projects shall be known and may be cited as the "State Fiscal Year 2011 Clean Water Project Priority List":

Project Sponsor	**Project Number**	**Estimated Total Allowable Loan Amount**	**Estimated Allowable Trust Loan Amount**
Musconetcong SA	S340384-07	$1,260,000	$630,000
Ewing Lawrence SA	S340391-08	$9,660,000	$4,830,000
Newark City	S340815-20	$19,320,000	$9,660,000
Cape May County MUA	S340661-10	$525,000	$262,500
Cape May County MUA	S340661-14	$420,000	$210,000
North Hudson SA	S340952-15	$1,260,000	$630,000

North Hudson SA	S340952-14	$1,260,000	$630,000
North Hudson SA	S340952-16	$3,780,000	$1,890,000
Passaic Valley SC	S340689-18	$22,050,000	$11,025,000
Pompton Lakes Borough MUA	S340636-07	$1,050,000	$525,000
Phillipsburg Town	S340874-05	$1,785,000	$892,500
Bergen County UA	S340386-09	$35,175,000	$17,587,500
Stony Brook RSA	S340400-06	$13,395,000	$6,697,500
Allamuchy Township	S340256-02	$3,780,000	$1,890,000
Hackensack City	S340923-11	$2,310,000	$1,155,000
Trenton City	S340416-11	$2,520,000	$1,260,000
Medford Township	S340346-07	$3,780,000	$1,890,000
Bergen County UA	S340386-10	$6,405,000	$3,202,500
Bergen County UA	S340386-11	$9,030,000	$4,515,000
Maple Shade Township	S340710-05	$1,365,000	$682,500
Camden County MUA	S340640-10	$52,605,000	$26,302,500
Atlantic County UA	S340809-21	$8,715,000	$4,357,500
Kearny MUA	S340259-07	$2,940,000	$1,470,000
Cranford Township	S340858-01	$1,050,000	$525,000
Middlesex County UA	S340699-09	$11,865,000	$5,932,500
Ocean County UA	S340372-44	$6,615,000	$3,307,500
Ocean County UA	S340372-43	$4,305,000	$2,152,500
Atlantic County UA	S340809-10	$1,890,000	$945,000
Cumberland County UA	S340550-05	$1,890,000	$945,000
Cape May County MUA	S340661-11	$420,000	$210,000
Cape May County MUA	S340661-12	$8,390,000	$4,195,000
Hamilton Township	S340898-05	$3,045,000	$1,522,500
Hamilton Township	S340898-04	$2,100,000	$1,050,000
Old Bridge MUA	S340945-09	$3,675,000	$1,837,500
Montclair Township	S340837-02	$4,620,000	$2,310,000
Galloway Township	S340892-05	$735,000	$367,500
Galloway Township	S340892-06	$840,000	$420,000
Galloway Township	S340892-08	$525,000	$262,500
Carteret Borough	S340939-06	$5,250,000	$2,625,000
Musconetcong SA	S340384-08	$1,575,000	$787,500
Lyndhurst Township	S340426-08	$5,985,000	$2,992,500
New Milford Borough	S340177-01	$1,365,000	$682,500
Ventnor City	S340241-01	$1,155,000	$577,500
Brigantine City	S340827-03	$5,775,000	$2,887,500
Somers Point City	S340618-01	$3,150,000	$1,575,000
Waldwick Borough	S340195-01	$315,000	$157,500
Maywood Borough	S340226-01	$1,785,000	$892,500
Oradell Borough	S340835-02	$840,000	$420,000
Glen Ridge Borough	S340861-01	$420,000	$210,000

Edgewater Park SA	S340108-02	$4,725,000	$2,362,500
Edgewater Borough	S340446-12	$630,000	$315,000
Barrington Borough	S340305-02	$1,470,000	$735,000
Midland Park Borough	S340227-01	$735,000	$367,500
Ocean Township	S340750-09	$420,000	$210,000
Lopatcong Borough	S340264-02	$3,675,000	$1,837,500
Norwood Borough	S340230-01	$1,155,000	$577,500
Lambertville MUA	S340882-07	$420,000	$210,000
Stanhope Borough	S340504-02	$315,000	$157,500
Long Beach Township	S340023-03	$2,415,000	$1,207,500
Hamburg Borough	S340149-01	$1,470,000	$735,000
Sussex Borough	S340155-01	$1,260,000	$630,000
Island Heights Borough	S340176-02	$105,000	$52,500
Stone Harbor Borough	S340722-03	$2,205,000	$1,102,500
Rockleigh SA	S340232-01	$1,155,000	$577,500
Ocean County UA	S340372-42	$1,680,000	$840,000
Gloucester County UA	S340902-07	$2,310,000	$1,155,000
Cape May County MUA	S340661-13	$525,000	$262,500
Northwest Bergen County UA	S340700-10	$3,360,000	$1,680,000
Merchantville-Pennsauken Water Commission	S340137-01	$1,365,000	$682,500
Old Bridge MUA	S340945-08	$9,450,000	$4,725,000
Aberdeen Township	S340869-02	$6,720,000	$3,360,000
Willingboro Township	S340132-03	$2,940,000	$1,470,000
Delran Township	S340794-06	$1,050,000	$525,000
Newark City	S340815-12	$25,095,000	$12,547,500
Newark City	S340815-11	$19,215,000	$9,607,500
Atlantic County UA	S340809-18	$2,415,000	$1,207,500
Atlantic County UA	S340809-19	$1,575,000	$787,500
Atlantic County UA	S340809-20	$525,000	$262,500
Gloucester Township	S340364-08	$1,680,000	$840,000
Gloucester Township	S340364-07	$840,000	$420,000
Plainfield City	S340240-01	$210,000	$105,000
Berkeley Township	S340969-11	$2,415,000	$420,000
Berkeley Township	S340969-10	$840,000	$1,207,500
Galloway Township	S340892-03	$630,000	$315,000
Galloway Township	S340892-07	$840,000	$420,000
Rahway City	S340546-03	$840,000	$420,000
Hillside Township	S340906-04	$1,155,000	$577,500
Dumont Borough	S340922-05	$4,935,000	$2,467,500
Little Falls Township	S340716-06	$1,050,000	$525,000
Mount Holly Township	S340817-05	$210,000	$105,000
Bogota Borough	S340914-02	$1,155,000	$577,500

Linwood City	S340217-01	$840,000	$420,000
Linwood City	S340217-02	$2,100,000	$1,050,000
Bellmawr Borough	S342011-02	$27,405,000	$13,702,500
NJ Water Supply Authority	S343054-07	$3,465,000	$1,732,500
NJ City University	S340111-02	$29,295,000	$14,647,500
City of Bayonne Redevelopment Authority	S340051-05	$2,625,000	$1,312,500
City of Bayonne Redevelopment Authority	S340051-06	$3,255,000	$1,627,500
City of Bayonne Redevelopment Authority	S340051-07	$7,245,000	$3,622,500
Woodbridge Township	S340433-10	$10,185,000	$5,092,500
Phillipsburg Redevelopment Agency	S340874-06	$10,290,000	$5,145,000
Total:		**$497,855,000**	**$248,927,500**

b. The following environmental infrastructure projects shall be known and may be cited as the "State Fiscal Year 2011 Drinking Water Project Priority List":

Project Sponsor	**Project Number**	**Estimated Total Allowable Loan Amount**	**Estimated Allowable Trust Loan Amount**
Trenton City	1111001-009	$14,070,000	$7,035,000
Aqua New Jersey Inc.	1103001-003	$1,365,000	$682,500
Camden County Board of Education	0415308-001	$525,000	$262,500
Sea Village Marina L.L.C.	0108021-002	$945,000	$472,500
Great Gorge Terrace Condo Association	1922014-001	$1,050,000	$525,000
Lake Tamarack Water Company, Inc.	1911003-002	$105,000	$52,500
Egg Harbor City	0107001-002	$10,710,000	$5,355,000
Newark City	0714001-006	$9,345,000	$4,672,500
Camden City	0408001-018	$1,365,000	$682,500
NJ American Water Company, Inc.	0119002-005	$3,255,000	$1,627,500
Passaic Valley Water Commission	1605002-012	$1,680,000	$840,000
Passaic Valley Water Commission	1605002-011	$2,415,000	$1,207,500
Passaic Valley Water Commission	1605002-013	$1,680,000	$840,000

NJ City University/ Jersey City MUA	0906001-005	$945,000	$472,500
Ocean Township	1520001-001	$1,365,000	$682,500
National Park Borough	0812001-001	$3,360,000	$1,680,000
East Orange City	0705001-008	$7,770,000	$3,885,000
Stone Harbor Borough	0510001-004	$945,000	$472,500
Maple Shade Township	0319001-005	$1,575,000	$787,500
Phillipsburg Redevelopment Agency/ Aqua NJ	2119001-006	$2,730,000	$1,365,000
Pemberton Borough	0328001-001	$840,000	$420,000
NJ American Water Company, Inc.	0712001-005	$82,005,000	$41,002,500
Sayreville Borough	1219001-007	$16,485,000	$8,242,500
Bordentown City	0303001-004	$630,000	$315,000
Clinton Town	1005001-001	$1,470,000	$735,000
Island Heights Borough	1510001-003	$3,150,000	$1,575,000
Plausha Park Water Company, Inc.	1421004-001	$210,000	$105,000
Greenbriar Residential Healthcare Facility, Inc.	1421305-001	$52,500	$26,250
Willingboro MUA	0338001-002	$10,605,000	$5,302,500
Long Beach Township	1517001-010	$2,310,000	$1,155,000
Lyndhurst Township	0232001-002	$2,625,000	$1,312,500
Lyndhurst Township	0232001-001	$12,390,000	$6,195,000
Beach Haven Borough	1503001-002	$2,730,000	$1,365,000
National Park Borough	0812001-003	$420,000	$210,000
Alpha Borough	2102001-001	$2,520,000	$1,260,000
Byram Homeowners Association Water Company, Inc.	1904009-002	$315,000	$157,500
Middlesex Water Company, Inc.	1225001-012	$4,305,000	$2,152,500
NJ American Water Company, Inc./Free Acres Homeowners Association	0712001-010	$1,680,000	$840,000
NJ American Water Company, Inc./Free Acres Homeowners Association	0712001-011	$210,000	$105,000
Avalon Borough	0501001-001	$1,785,000	$892,500
Clinton Town	1005001-002	$3,150,000	$1,575,000
Aberdeen Township	1330002-002	$1,575,000	$787,500
Glen Ridge Borough	0708001-005	$945,000	$472,500
Allamuchy Township	2101001-003	$2,730,000	$1,365,000

Island Heights Borough	1510001-004	$315,000	$157,500
Byram Homeowners Association Water Company, Inc.	1904009-005	$210,000	$105,000
Plausha Park Water Company, Inc.	1421004-002	$210,000	$105,000
Old Bridge MUA	1209002-007	$5,460,000	$2,730,000
Little Egg Harbor MUA	1516001-002	$420,000	$210,000
Waldwick Borough	0264001-002	$1,260,000	$630,000
Boonton Town	1401001-001	$1,365,000	$682,500
Island Heights Borough	1510001-002	$2,205,000	$1,102,500
Byram Homeowners Association Water Co., Inc.	1904009-004	$52,500	$26,250
Plausha Park Water Company, Inc.	1421004-003	$210,000	$105,000
NJ American Water Company, Inc.	1345001-013	$1,260,000	$630,000
NJ American Water Company, Inc.	0327001-011	$8,400,000	$4,200,000
NJ American Water Company, Inc.	0712001-012	$1,470,000	$735,000
NJ American Water Company, Inc.	0323001-002	$7,455,000	$3,727,500
Lakehurst Borough	1513001-001	$105,000	$52,500
Byram Homeowners Association Water Company, Inc.	1904009-001	$105,000	$52,500
Ocean Township	1520001-002	$315,000	$157,500
National Park Borough	0812001-002	$210,000	$105,000
Mount Olive Township	1427015-001	$1,050,000	$525,000
Byram Homeowners Association Water Company, Inc.	1904009-003	$52,500	$26,250
Nutley Township	0716001-001	$3,255,000	$1,627,500
NJ Water Supply Authority	1352005-004	$4,305,000	$2,152,500
Total:		**$262,027,500**	**$131,013,750**

c. The trust is authorized to adjust the allowable trust loan amount for projects authorized in this section to between 25% and 75% of the total allowable loan amount.

5. In accordance with and subject to the provisions of sections 5, 6 and 23 of P.L.1985, c.334 (C.58:11B-5, C.58:11B-6, and C.58:11B-23) and as set forth in the financial plan required pursuant to section 21 of P.L.1985,

c.334 (C.58:11B-21), or the financial plan required pursuant to section 25 of P.L.1997, c.224 (C.58:11B-21.1), any proceeds from bonds issued by the trust to make loans for priority environmental infrastructure projects listed in sections 2 and 4 of this act which are not expended for that purpose may be applied for the payment of all or any part of the principal of and interest and premium on the trust bonds whether due at stated maturity, the interest payment dates or earlier upon redemption. A portion of the proceeds from bonds issued by the trust to make loans for priority environmental infrastructure projects pursuant to this act may be applied for the payment of capitalized interest and for the payment of any issuance expenses; for the payment of reserve capacity expenses; for the payment of debt service reserve fund expenses for the payment of the loan origination fees; and for the payment of increased costs as defined and determined in accordance with the rules and regulations adopted by the trust pursuant to section 27 of P.L.1985, c.334 (C.58:11B-27).

6. Any loan made by the New Jersey Environmental Infrastructure Trust pursuant to this act shall be subject to the following requirements:

a. The chairman of the trust has certified that the project is in compliance with the provisions of P.L.1977, c.224, P.L.1985, c.334, P.L.1992, c.88, P.L.1997, c.223, P.L.1997, c.224, P.L.1997, c.225, P.L.1999, c.175 or P.L.2003, c.162, and any rules and regulations adopted pursuant thereto, and any amendatory and supplementary acts thereto, as applicable. In making this certification, the chairman may conclusively rely on the project review conducted by the Department of Environmental Protection without any independent review thereof by the trust;

b. The loan shall be conditioned upon inclusion of the project on a project priority list approved pursuant to section 20 of P.L.1985, c.334 (C.58:11B-20) or section 24 of P.L.1997, c.224 (C.58:11B-20.1);

c. The loan shall be repaid within a period not to exceed 20 years of the making of the loan;

d. The loan, including any portion thereof made by the trust pursuant to subsection f. of section 7 of this act, shall not exceed the allowable project cost of the environmental infrastructure facility, exclusive of capitalized interest and issuance expenses as provided in subsection b. of section 7 of this act, reserve capacity expenses and the debt service reserve fund expenses as provided in subsection c. of section 7 of this act, interest earned on project costs as provided in subsection d. of section 7 of this act, the amounts of the loan origination fee as provided in subsection e. of section 7 of this act, refunding increases as provided in section 8 of this act and increased costs as

defined and determined in accordance with the rules and regulations adopted by the trust pursuant to section 27 of P.L.1985, c.334 (C.58:11B-27);

e. The loan shall bear interest, exclusive of any late charges or administrative fees payable to the trust pursuant to subsection o. of section 5 of P.L.1985, c.334 (C.58:11B-5) by the project sponsors receiving trust loans, at or below the interest rate paid by the trust on the bonds issued to make or refund the loans authorized by this act, adjusted for underwriting discount and original issue discount or premium, in accordance with the terms and conditions set forth in the financial plan required pursuant to section 21 of P.L.1985, c.334 (C.58:11B-21) or the financial plan required pursuant to section 25 of P.L.1997, c.224 (C.58:11B-21.1); and

f. The loan shall be subject to all other terms and conditions as the trust shall determine to be consistent with the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) and any rules and regulations adopted pursuant thereto, and with the financial plan required by section 21 of P.L.1985, c.334 (C.58:11B-21) or the financial plan required pursuant to section 25 of P.L.1997, c.224 (C.58:11B-21.1).

The priority lists and authorization for the making of loans pursuant to this act shall expire on July 1, 2011, and any project sponsor which has not executed and delivered a loan agreement with the trust for a loan authorized in this act shall no longer be entitled to that loan.

7. a. The New Jersey Environmental Infrastructure Trust is authorized to reduce the individual amount of loan funds made available to or on behalf of project sponsors pursuant to sections 2 and 4 of this act based upon final building costs defined in and determined in accordance with rules and regulations adopted by the trust pursuant to section 27 of P.L.1985, c.334 (C.58:11B-27) or rules and regulations adopted by the Commissioner of Environmental Protection pursuant to section 4 of P.L.1985, c.329, section 11 of P.L.1977, c.224 (C.58:12A-11) or section 5 of P.L.1981, c.261. The trust is authorized to use any such reduction in the loan amount made available to a project sponsor to cover that project sponsor's increased costs due to differing site conditions or other allowable expenses as defined and determined in accordance with the rules and regulations adopted by the trust pursuant to section 27 of P.L.1985, c.334 (C.58:11B-27).

b. The trust is authorized to increase each loan amount authorized in sections 2 and 4 of this act by the amount of capitalized interest and issuance expenses allocable to each loan made by the trust pursuant to this act; provided that the increase for issuance expenses, excluding underwriters' discount, original issue discount or premiums, municipal bond insurance

premiums and bond rating agency fees, shall not exceed 0.4% of the principal amount of trust bonds issued to make loans authorized by this act.

c. The trust is authorized to increase each loan amount authorized in sections 2 and 4 of this act by the amount of reserve capacity expenses, and by the debt service reserve fund expenses associated with the costs identified in paragraphs (3) and (4) of subsection d. of section 1 of this act.

d. The trust is authorized to increase each loan amount authorized in sections 2 and 4 of this act by the interest earned on amounts deposited for project costs pending their distribution to project sponsors.

e. The trust is authorized to increase each loan amount authorized in sections 2 and 4 of this act by the loan origination fee.

f. The trust is authorized to increase each loan amount authorized in sections 2 and 4 of this act by the amount appropriated to the Department of Environmental Protection for the purpose of making the corresponding zero interest loan pursuant to section 3 of P.L.2010, c.63 in connection with the project costs of the project sponsor, to the extent the priority ranking and an insufficiency of funding prevents the department from making the loan.

8. The New Jersey Environmental Infrastructure Trust is authorized to increase the individual amount of loan funds made available to project sponsors by the trust pursuant to P.L.1989, c.190, P.L.1990, c.97, P.L.1991, c.324, P.L.1992, c.37, P.L.1993, c.192, P.L.1994, c.105, P.L.1995, c.218, P.L.1996, c.87, P.L.1997, c.222, P.L.1998, c.85, P.L.1999, c.173, P.L.2000, c.93, P.L.2001, c.224, P.L.2002, c.71, P.L.2003, c.159, P.L.2004, c.110, P.L.2005, c.197, P.L.2006, c.67, P.L.2007, c.140, P.L.2008, c.67, P.L.2009, c.101 or P.L.2010, c.62, provided that adequate savings are achieved, to compensate for a refunding of trust bonds issued to make loans authorized by the aforementioned acts.

9. The expenditure of funds authorized pursuant to this act is subject to the provisions of P.L.1977, c.224 (C.58:12A-1 et al.), P.L.1985, c.329, P.L.1985, c.334 (C.58:11B-1 et seq.), as amended and supplemented by P.L.1997, c.224, P.L.1992, c.88, P.L.1989, c.181, P.L.1997, c.223, P.L.1997, c.225, P.L.1999, c.175 or P.L.2003, c.162, and the rules and regulations adopted pursuant thereto and the Federal Safe Drinking Water Act, as appropriate.

10. a. There is appropriated to the New Jersey Environmental Infrastructure Trust as needed from repayments of loans deposited in any account, including the "Wastewater Treatment Fund," the "1992 Wastewater

Treatment Fund," the "Water Supply Fund," the "Stormwater Management and Combined Sewer Overflow Abatement Fund," or the Drinking Water State Revolving Fund, as appropriate, and from any net earnings received from the investment and reinvestment of such deposits, the sum of $100,000,000 consisting of:

(1) The unexpended balance of $200,000,000 previously appropriated pursuant to P.L.2009, c.101 and currently on deposit in the special fund (hereinafter referred to as the "Interim Financing Program Fund") created and established by the trust for the short-term or temporary loan financing or refinancing program (hereinafter referred to as the "Interim Financing Program") authorized pursuant to subsection d. of section 9 of P.L.1985, c.334 (C.58:11B-9), which balance previously had been appropriated to the trust for such purpose pursuant to section 12 of P.L.2004, c.109, less any Interim Financing Program Fund amounts appropriated to the Department of Environmental Protection to supplement the sums appropriated from the Clean Water State Revolving Fund for clean water projects pursuant to the Federal Clean Water Act; and

(2) such other amounts to be deposited in the Interim Financing Program Fund, provided that the amount so reappropriated and appropriated to the trust for deposit in the Interim Financing Program Fund shall be utilized by the trust to make short-term or temporary loans pursuant to the Interim Financing Program to any one or more of the project sponsors, for the respective projects thereof, identified in the interim financing project priority list (hereinafter referred to as the "Interim Financing Program Eligibility List") in the form provided to the Legislature by the Commissioner of Environmental Protection.

b. The Interim Financing Program Eligibility List shall be submitted to the Legislature on or before June 18, 2010 on a day when both Houses are meeting. The President of the Senate and the Speaker of the General Assembly shall cause the date of submission to be entered upon the Senate Journal and the Minutes of the General Assembly, respectively. Any environmental infrastructure project or the project sponsor thereof not identified in the Interim Financing Program Eligibility List shall not be eligible for a short-term or temporary loan from the Interim Financing Program Fund.

11. This act shall take effect immediately.

Approved August 31, 2010.

CHAPTER 63

AN ACT appropriating moneys to the Department of Environmental Protection for the purpose of making grants, zero interest loans, or principal forgiveness loans to project sponsors to finance a portion of the costs of environmental infrastructure projects.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. a. (1) There is appropriated to the Department of Environmental Protection from the "Clean Water State Revolving Fund" established pursuant to section 1 of P.L.2009, c.77, an amount equal to the federal fiscal year 2010 capitalization grant made available to the State for clean water project loans pursuant to the "Water Quality Act of 1987" (33 U.S.C. s.1251 et seq.), and any amendatory and supplementary acts thereto (hereinafter referred to as the "Federal Clean Water Act").

(2) There is appropriated to the Department of Environmental Protection from the "Interim Financing Program Fund" created and established by the New Jersey Environmental Infrastructure Trust pursuant to subsection d. of section 9 of P.L.1985, c.334 (C.58:11B-9) such amounts as may be necessary to supplement the sums appropriated from the Clean Water State Revolving Fund for the purposes of clean water project loans and providing the State match as required or will be required for the award of the capitalization grants made available to the State for clean water projects pursuant to the Federal Clean Water Act.

(3) There is appropriated to the Department of Environmental Protection from the Drinking Water State Revolving Fund established pursuant to section 1 of P.L.1998, c.84 an amount equal to the Federal fiscal year 2010 capitalization grant made available to the State for drinking water projects pursuant to the "Safe Drinking Water Act Amendments of 1996" Pub.L.104-182, and any amendatory and supplementary acts thereto (hereinafter referred to as the "Federal Safe Drinking Water Act").

The Department of Environmental Protection is authorized to transfer from the Clean Water State Revolving Fund to the Drinking Water State Revolving Fund an amount up to the maximum amount authorized to be transferred pursuant to the Federal Safe Drinking Water Act to meet present and future needs for the financing of eligible drinking water projects, and an amount equal to said maximum amount is hereby appropriated to the department for those purposes.

The Department of Environmental Protection is authorized to transfer from the Drinking Water State Revolving Fund to the Clean Water State Revolving Fund an amount up to the maximum amount authorized to be transferred pursuant to the Federal Clean Water Act to meet present and future needs for the financing of eligible clean water projects, and an amount equal to said maximum amount is hereby appropriated to the department for those purposes.

(4) There is appropriated to the Department of Environmental Protection the unappropriated balances from the "Clean Water State Revolving Fund" and any repayments of loans and interest therefrom, for the purposes of clean water project loans and providing the State match as available on or before June 30, 2011, as required or will be required for the award of the capitalization grants made available to the State for clean water projects pursuant to the Federal Clean Water Act.

(5) There is appropriated to the Department of Environmental Protection the unappropriated balances from the "Wastewater Treatment Fund" established pursuant to section 15 of the "Wastewater Treatment Bond Act of 1985," (P.L.1985, c.329) and any repayments of loans and interest therefrom, as available on or before June 30, 2011, for the purposes of clean water project loans and providing the State match as required or will be required for the award of the capitalization grants made available to the State for clean water projects pursuant to the Federal Clean Water Act.

(6) There is appropriated to the Department of Environmental Protection the unappropriated balances from the "1992 Wastewater Treatment Fund" established pursuant to section 27 of the "Green Acres, Clean Water, Farmland and Historic Preservation Bond Act of 1992," (P.L.1992, c.88) and any repayments of loans and interest therefrom, as available on or before June 30, 2011, for the purposes of clean water project loans and providing the State match as required or will be required for the award of the capitalization grants made available to the State for clean water projects pursuant to the Federal Clean Water Act.

(7) There is appropriated to the Department of Environmental Protection the unappropriated balances from the "2003 Water Resources and Wastewater Treatment Fund" established pursuant to subsection a. of section 19 of the "Dam, Lake, Stream, Flood Control, Water Resources, and Wastewater Treatment Project Bond Act of 2003," (P.L.2003, c.162) and any repayments of loans and interest therefrom, as available on or before June 30, 2011, for the purposes of clean water project loans and providing the State match as required or will be required for the award of the capitali-

zation grants made available to the State for clean water projects pursuant to the Federal Clean Water Act.

(8) There is appropriated to the Department of Environmental Protection the unappropriated balances from the "Wastewater Treatment Fund" established pursuant to section 15 of the "Wastewater Treatment Bond Act of 1985," P.L.1985 c.329 the sum of $1,247,269 resulting from the cancellation of the following appropriations made pursuant to P.L.2008, c.115;

Hackensack City	$665,140
Hudson County	$133,028
Perth Amboy City	$399,083
Wall Township	$33,257
Ocean County	$16,761

(9) There is appropriated to the Department of Environmental Protection the unappropriated balances from the Drinking Water State Revolving Fund for the purposes of drinking water project loans and any repayments of loans and interest therefrom, as available on or before June 30, 2011.

(10) There is appropriated to the Department of Environmental Protection the sum of $11 million from loan repayments and interest earnings from the "Water Supply Fund" to the "Drinking Water State Revolving Fund (DWSRF) Match Accounts" contained within such fund for the purpose of providing the State match as required or will be required for the award of the capitalization grants made available to the State for drinking water projects pursuant to the Federal Safe Drinking Water Act.

(11) There is appropriated to the Department of Environmental Protection from the "Interim Financing Program Fund" created and established by the New Jersey Environmental Infrastructure Trust pursuant to subsection d. of section 9 of P.L.1985, c.334 (C.58:11B-9) such amounts as available on or before June 30, 2011, and any repayments of loans and interest therefrom, as may be necessary to supplement the sums appropriated from the Drinking Water State Revolving Fund for the purposes of drinking water project loans and providing the State match as required or will be required for the award of the capitalization grants made available to the State for clean water projects pursuant to the Federal Safe Drinking Water Act.

(12) There is appropriated to the Department of Environmental Protection such sums as available on or before June 30, 2011, as repayments of drinking water project loans and any interest therefrom from the "Water Supply Fund" established pursuant to section 14 of the "Water Supply Bond Act of 1981" (P.L.1981, c.261) for the purposes of drinking water project loans and providing the State match as required or will be required

for the award of the capitalization grants made available to the State for drinking water projects pursuant to the Federal Safe Drinking Water Act.

(13) Of the sums appropriated to the Department of Environmental Protection from the "Water Supply Fund" pursuant to P.L.1999, c.174, P.L.2001, c.222, P.L.2002, c.70 and P.L.2003, c.158, the department is authorized to transfer any unexpended balances and any repayments of loans and interest therefrom as available on or before June 30, 2011, in such amounts as needed to the Drinking Water State Revolving Fund accounts contained within the Water Supply Fund established for the purposes of providing drinking water project loans and providing the State match as required or will be required for the award of the capitalization grants made available to the State for drinking water projects pursuant to the Federal Safe Drinking Water Act.

(14) Of the sums appropriated to the Department of Environmental Protection from the "1992 Wastewater Treatment Fund" pursuant to P.L.1996, c.85, P.L.1997, c.221, P.L.1998, c.84, P.L.1999, c.174, P.L.2000, c.92, P.L.2001, c.222 and P.L.2002, c.70, the department is authorized to transfer any unexpended balances and any repayments of loans and interest therefrom, as available on or before June 30, 2011, in such amounts as needed to the Clean Water State Revolving Fund accounts contained within the 1992 Wastewater Treatment Fund for the purposes of providing clean water project loans and providing the State match as required or will be required for the award of the capitalization grants made available to the State for clean water projects pursuant to the Federal Clean Water Act.

(15) Of the sums appropriated to the Department of Environmental Protection from the "2003 Water Resources and Wastewater Treatment Fund" pursuant to P.L.2004, c.109, and P.L.2007, c.139, the department is authorized to transfer any unexpended balances and any repayments of loans and interest therefrom as available on or before June 30, 2011, in such amounts as needed to the Clean Water State Revolving Fund accounts contained within the 2003 Water Resources and Wastewater Treatment Fund for the purposes of providing clean water project loans and providing the State match as required or will be required for the award of the capitalization grants made available to the State for clean water projects pursuant to the Federal Clean Water Act.

(16) There is appropriated to the Department of Environmental Protection the sums deposited by the New Jersey Environmental Infrastructure Trust into the "Clean Water State Revolving Fund," the "Wastewater Treatment Fund," the "1992 Wastewater Treatment Fund," the "Water Supply Fund," the "Stormwater Management and Combined Sewer Overflow

Abatement Fund," the "2003 Water Resources and Wastewater Treatment Fund" and the Drinking Water State Revolving Fund, as appropriate, pursuant to paragraph (6) of subsection c. of section 1 of P.L.2010, c.62, as available on or before June 30, 2011, for the purposes of providing clean water project loans and drinking water project loans and providing the State match as required or will be required for the award of the capitalization grants made available to the State for clean water projects pursuant to the Federal Clean Water Act and drinking water projects pursuant to the Federal Safe Drinking Water Act.

Any such amounts shall be for the purpose of making zero interest financing loans to the extent sufficient funds are available, to or on behalf of local government units or public water utilities (hereinafter referred to as "project sponsors") to finance a portion of the cost of construction of clean water projects and drinking water projects listed in sections 2 and 3 of this act, and for the purpose of implementing and administering the provisions of this act, to the extent permitted by the American Recovery and Reinvestment Act of 2009 (Public Law 111-5), the Federal Clean Water Act, and any amendatory and supplementary acts thereto, the "Clean Water State Revolving Fund Act" (P.L.2009, c.77), the "Wastewater Treatment Bond Act of 1985" (P.L.1985, c.329), the "Water Supply Bond Act of 1981," (P.L.1981, c.261), the "Stormwater Management and Combined Sewer Overflow Abatement Bond Act of 1989" (P.L.1989, c.181), the "Green Acres, Clean Water, Farmland and Historic Preservation Bond Act of 1992," (P.L.1992, c.88), the "Dam, Lake, Stream, Flood Control, Water Resources, and Wastewater Treatment Project Bond Act of 2003," (P.L.2003, c.162), the Federal Safe Drinking Water Act, and any amendatory and supplementary acts thereto, and State law.

b. The department is authorized to make zero interest and principal forgiveness financing loans to or on behalf of the project sponsors for the environmental infrastructure projects listed in subsection a. of section 2 and subsection a. of section 3 of this act for clean water projects, up to the individual amounts indicated and in the priority stated, provided: (1) a minimum of 20 percent of the 2010 Clean Water State Revolving Fund capitalization grant shall be issued to projects in subsection a. of section 3 of this act addressing green infrastructure, water or energy efficiency improvements, or other environmentally innovative activities allocated to projects in the priority stated, to the extent there are sufficient eligible project applications; and (2) principal forgiveness shall constitute 30 percent of the amount of the 2010 Clean Water State Revolving Fund capitalization grant, wherein principal forgiveness shall not exceed the lesser of 25 percent or

$2.5 million of the combined trust loan amount and fund loan amount per project sponsor and allocated to projects in subsection a. of section 3 of this act in the priority stated, and except as any such amount may be reduced by the Commissioner of Environmental Protection pursuant to section 6 of this act, or if a project fails to meet the requirements of section 4 or section 5 of this act.

c. The department is authorized to make zero interest and principal forgiveness financing loans to or on behalf of the project sponsors for the environmental infrastructure projects listed in subsection b. of section 2 and subsection b. of section 3 of this act for drinking water projects, up to the individual amounts indicated and in the priority stated, provided: (1) a minimum of 20 percent of the 2010 Drinking Water State Revolving Fund capitalization grant shall be issued to projects in subsection b. of section 3 of this act addressing green infrastructure, water or energy efficiency improvements, or other environmentally innovative activities allocated to projects in the priority stated, to the extent there are sufficient eligible project applications; and (2) principal forgiveness shall constitute 30 percent of the amount of the 2010 Drinking Water State Revolving Fund capitalization grant, wherein principal forgiveness to other than drinking water systems servicing fewer than 500 residents shall not exceed the lesser of 25 percent or $2.5 million of the combined trust loan amount and fund loan amount per project sponsor and allocated to projects in subsection b. of section 3 of this act in the priority stated or wherein principal forgiveness to drinking water systems servicing fewer than 500 residents shall not exceed the lesser of 50 percent or $2.5 million of the combined trust loan amount and fund loan amount per project sponsor and allocated to projects in subsection b. of section 3 of this act in the priority stated, and except as any such amount may be reduced by the Commissioner of Environmental Protection pursuant to section 6 of this act, or if a project fails to meet the requirements of section 4 or section 5 of this act.

d. The department is authorized to make zero interest and principal forgiveness financing loans to or on behalf of the project sponsors for the environmental infrastructure projects listed in sections 2 and 3 of this act under the same terms, conditions and requirements as set forth in this section from any unexpended balances of the amounts appropriated pursuant to section 1 of P.L.1987, c.200, section 2 of P.L.1988, c.133, section 1 of P.L.1989, c.189, section 1 of P.L.1990, c.99, section 1 of P.L.1991, c.325, section 1 of P.L.1992, c.38, section 1 of P.L.1993, c.193, section 1 of P.L.1994, c.106, section 1 of P.L.1995, c.219, section 1 of P.L.1996, c.85, section 1 of P.L.1997, c.221, section 2 of P.L.1998, c.84, section 2 of

P.L.1999, c.174, section 2 of P.L.2000, c.92, sections 1 and 2 of P.L.2001, c.222, sections 1 and 2 of P.L.2002, c.70, sections 1 and 2 of P.L.2003, c.158, sections 1 and 2 of P.L.2004, c.109, sections 1 and 2 of P.L.2005, c.196, sections 1 and 2 of P.L.2006, c.68, sections 1 and 2 of P.L.2007, c.139, sections 1 and 2 of P.L.2008, c.68, and sections 1 and 2 of P.L.2009, c102, including amounts resulting from the low bid and final building cost reductions authorized pursuant to section 6 of P.L.1987, c.200, section 7 of P.L.1988, c.133, section 6 of P.L.1989, c.189, section 6 of P.L.1990, c.99, section 6 of P.L.1991, c.325, section 6 of P.L.1992, c.38, section 6 of P.L.1993, c.193, section 6 of P.L.1994, c.106, section 6 of P.L.1995, c.219, section 6 of P.L.1996, c.85, section 6 of P.L.1997, c.221, section 7 of P.L.1998, c.84, section 6 of P.L.1999, c.174, section 6 of P.L.2000, c.92, section 6 of P.L.2001, c.222, section 6 of P.L.2002, c.70, section 6 of P.L.2003, c.158, section 6 of P.L.2004, c.109, section 6 of P.L.2005, c.196, section 6 of P.L.2006, c.68, section 6 of P.L.2007, c.139, section 6 of P.L.2008, c.68, and section 7 of P.L.2009, c.102, and from any repayments of loans and interest from the "Clean Water State Revolving Fund," the "Wastewater Treatment Fund," the "Water Supply Fund," the "1992 Wastewater Treatment Fund," the "2003 Water Resources and Wastewater Treatment Fund," and amounts deposited therein during State fiscal year 2010 and State fiscal year 2011 pursuant to the provisions of section 16 of P.L.1985, c.329, and section 2 of P.L.2010, c.77, including any Clean Water State Revolving Fund Accounts contained within the "Wastewater Treatment Fund," and from any repayment of loans and interest from the Drinking Water State Revolving Fund.

e. The department is authorized to make a grant pursuant to subsection a. of section 6 of the "Wastewater Treatment Bond Act of 1985," P.L.1985, c.329 to the Borough of Madison, Project No. S340715-04B-1 in an amount not to exceed $200,000.

2. a. (1) The department is authorized to expend funds for the purpose of making supplemental zero interest loans to or on behalf of the project sponsors listed below for the following clean water environmental infrastructure projects:

Project Sponsor	**Project Number**	**Estimated Total Allowable Loan Amount**	**Estimated Allowable DEP Loan Amount**
Bergen County UA	S340386-07-1	$525,000	$262,500
Camden County MUA	S340640-06,09, 11-1	$20,160,000	$10,080,000

Haledon Borough	S340173-01-1	$315,000	$157,500
Hamilton Township	S340898-03-1	$525,000	$262,500
Jersey City MUA	S340928-02-1	$3,885,000	$1,942,500
Madison Borough	S340715-04B-1	$420,000	$210,000
Medford Township	S340346-05-1	$3,780,000	$1,890,000
Montgomery Township	S340130-02-1	$10,815,000	$5,407,500
New Brunswick City	S340437-11-1	$1,890,000	$945,000
Pequannock Lincoln Park and Fairfield SA	S340880-03-1	$2,835,000	$1,417,500
Wanaque Valley RSA	S340780-03-1	$4,830,000	$2,415,000
West Milford Township MUA	S340701-09-1	$1,050,000	$525,000
Total:		**$51,030,000**	**$25,515,000**

(2) The loans authorized in this subsection shall be made for the difference between the allowable loan amounts required by these projects based upon final building costs pursuant to section 6 of this act and the loan amounts certified by the Commissioner of Environmental Protection in State fiscal years 2002, 2004, 2008, 2009, and 2010 and for increased allowable costs as defined and determined in accordance with the rules and regulations adopted by the department pursuant to section 4 of P.L.1985, c.329. The loans authorized in this subsection shall be made to or on behalf of the project sponsors listed, up to the individual amounts indicated and in the priority stated, to the extent sufficient funds are available, except as a project fails to meet the requirements of section 4 or section 5 of this act.

(3) The zero interest loans for the projects authorized in this subsection shall have priority over projects listed in subsection a. of section 3 of this act.

b. (1) The department is authorized to expend funds for the purpose of making supplemental loans to or on behalf of the project sponsors listed below for the following drinking water environmental infrastructure projects:

Project Sponsor	**Project Number**	**Estimated Total Allowable Loan Amount**	**Estimated Allowable DEP Loan Amount**
Perth Amboy City	1216001-004-1	$2,730,000	$1,365,000
Sea Girt Borough	1344001-001, 002-1	$7,770,000	$3,885,000
Total:		**$10,500,000**	**$5,250,000**

(2) The loans authorized in this subsection shall be made for the difference between the allowable loan amounts required by these projects based upon final building costs pursuant to section 6 of this act and the loan amounts certified by the Commissioner of Environmental Protection in State fiscal years 2007 and 2008, and for increased allowable costs as defined and determined in accordance with the rules and regulations adopted by the department pursuant to section 5 of P.L.1981, c.261. The loans authorized in this subsection shall be made to or on behalf of the project sponsors listed, up to the individual amounts indicated and in the priority stated, to the extent sufficient funds are available, except as a project fails to meet the requirements of section 4 or section 5 of this act.

(3) The zero interest loans for the projects authorized in this subsection shall have priority over the environmental infrastructure projects listed in subsection b. of section 3 of this act.

c. The Department of Environmental Protection is authorized to adjust the allowable DEP loan amount for projects authorized in this section to between 25% and 75% of the total allowable loan amount.

3. a. The following environmental infrastructure projects shall be known and may be cited as the "State Fiscal Year 2011 Clean Water Project Priority List."

(1) Of those projects, the following are eligible for a combination of principal forgiveness and zero-interest loans from the department:

Project Sponsor	**Project Number**	**Estimated Total Allowable Loan Amount**	**Estimated Allowable DEP Loan Amount**
Musconetcong SA	S340384-07	$1,260,000	$630,000
Ewing Lawrence SA	S340391-08	$9,660,000	$4,830,000
Newark City	S340815-20	$19,320,000	$9,660,000
Cape May County MUA	S340661-10	$525,000	$262,500
Cape May County MUA	S340661-14	$420,000	$210,000
North Hudson SA	S340952-14	$1,260,000	$630,000
North Hudson SA	S340952-15	$1,260,000	$630,000
North Hudson SA	S340952-16	$3,780,000	$1,890,000
Passaic Valley SA	S340689-18	$22,050,000	$11,025,000
Pompton Lakes Borough MUA	S340636-07	$1,050,000	$525,000

Phillipsburg Town	S340874-05	$1,785,000	$892,500
Bergen County UA	S340386-09	$35,175,000	$17,587,500
Stony Brook Regional SA	S340400-06	$13,395,000	$6,697,500
Allamuchy Township	S340256-02	$3,780,000	$1,890,000
Hackensack City	S340923-11	$2,310,000	$1,155,000
Trenton City	S340416-11	$2,520,000	$1,260,000
Medford Township	S340346-07	$3,780,000	$1,890,000
Bergen County UA	S340386-10	$6,405,000	$3,202,500
Bergen County UA	S340386-11	$9,030,000	$4,515,000
Maple Shade Township	S340710-05	$1,365,000	$682,500
Camden County MUA	S340640-10	$52,605,000	$26,302,500
Total:		**$192,735,000**	**$96,367,500**

(2) Of those projects, the following are eligible for zero-interest loans from the department:

Project Sponsor	**Project Number**	**Estimated Total Allowable Loan Amount**	**Estimated Allowable DEP Loan Amount**
Atlantic County UA	S340809-21	$8,715,000	$4,357,500
Kearny MUA	S340259-07	$2,940,000	$1,470,000
Cranford Township	S340858-01	$1,050,000	$525,000
Middlesex County UA	S340699-09	$11,865,000	$5,932,500
Ocean County UA	S340372-43	$6,615,000	$3,307,500
Ocean County UA	S340372-44	$4,305,000	$2,152,500
Atlantic County UA	S340809-10	$1,890,000	$945,000
Cumberland County UA	S340550-05	$1,890,000	$945,000
Cape May County MUA	S340661-11	$420,000	$210,000
Cape May County MUA	S340661-12	$8,390,000	$4,195,000
Hamilton Township	S340898-04	$3,045,000	$1,522,500
Hamilton Township	S340898-05	$2,100,000	$1,050,000
Old Bridge MUA	S340945-09	$3,675,000	$1,837,500
Montclair Township	S340837-02	$4,620,000	$2,310,000
Galloway Township	S340892-05	$735,000	$367,500
Galloway Township	S340892-06	$840,000	$420,000
Galloway Township	S340892-08	$525,000	$262,500
Carteret Borough	S340939-06	$5,250,000	$2,625,000
Musconetcong SA	S340384-08	$1,575,000	$787,500
Lyndhurst Township	S340426-08	$5,985,000	$2,992,500

New Milford Borough	S340177-01	$1,365,000	$682,500
Ventnor City	S340241-01	$1,155,000	$577,500
Brigantine City	S340827-03	$5,775,000	$2,887,500
Somers Point City	S340618-01	$3,150,000	$1,575,000
Waldwick Borough	S340195-01	$315,000	$157,500
Maywood Borough	S340226-01	$1,785,000	$892,500
Oradell Borough	S340835-02	$840,000	$420,000
Glen Ridge Borough	S340861-01	$420,000	$210,000
Edgewater Park SA	S340108-02	$4,725,000	$2,362,500
Edgewater Borough	S340446-12	$630,000	$315,000
Barrington Borough	S340305-02	$1,470,000	$735,000
Midland Park Borough	S340227-01	$735,000	$367,500
Ocean Township	S340750-09	$420,000	$210,000
Lopatcong Borough	S340264-02	$3,675,000	$1,837,500
Norwood Borough	S340230-01	$1,155,000	$577,500
Lambertville MUA	S340882-07	$420,000	$210,000
Stanhope Borough	S340504-02	$315,000	$157,500
Long Beach Township	S340023-03	$2,415,000	$1,207,500
Hamburg Borough	S340149-01	$1,470,000	$735,000
Sussex Borough	S340155-01	$1,260,000	$630,000
Island Heights Borough	S340176-02	$105,000	$52,500
Stone Harbor Borough	S340722-03	$2,205,000	$1,102,500
Rockleigh SA	S340232-01	$1,155,000	$577,500
Ocean County UA	S340372-42	$1,680,000	$840,000
Gloucester County UA	S340902-07	$2,310,000	$1,155,000
Cape May County MUA	S340661-13	$525,000	$262,500
Northwest Bergen County UA	S340700-10	$3,360,000	$1,680,000
Merchantville-Pennsauken Water Commission	S340137-01	$1,365,000	$682,500
Old Bridge MUA	S340945-08	$9,450,000	$4,725,000
Aberdeen Township	S340869-02	$6,720,000	$3,360,000
Willingboro Township	S340132-03	$2,940,000	$1,470,000
Delran Township	S340794-06	$1,050,000	$525,000
Newark City	S340815-11	$25,095,000	$12,547,500
Newark City	S340815-12	$19,215,000	$9,607,500
Atlantic County UA	S340809-18	$2,415,000	$1,207,500
Atlantic County UA	S340809-19	$1,575,000	$787,500
Atlantic County UA	S340809-20	$525,000	$262,500
Gloucester Township	S340364-07	$1,680,000	$840,000
Gloucester Township	S340364-08	$840,000	$420,000
Plainfield City	S340240-01	$210,000	$105,000

Berkeley Township	S340969-10	$2,415,000	$420,000
Berkeley Township	S340969-11	$840,000	$1,207,500
Galloway Township	S340892-03	$630,000	$315,000
Galloway Township	S340892-07	$840,000	$420,000
Hillside Township	S340906-04	$840,000	$420,000
Rahway City	S340546-03	$1,155,000	$577,500
Dumont Borough	S340922-05	$4,935,000	$2,467,500
Little Falls Township	S340716-06	$1,050,000	$525,000
Mount Holly Township	S340817-05	$210,000	$105,000
Bogota Borough	S340914-02	$1,155,000	$577,500
Linwood City	S340217-01	$840,000	$420,000
Linwood City	S340217-02	$2,100,000	$1,050,000
Bellmawr Borough	S342011-02	$27,405,000	$13,702,500
NJ Water Supply Authority	S343054-07	$3,465,000	$1,732,500
NJ City University	S340111-02	$29,295,000	$14,647,500
City of Bayonne Redevelopment Authority	S340051-05	$2,625,000	$1,312,500
City of Bayonne Redevelopment Authority	S340051-06	$3,255,000	$1,627,500
City of Bayonne Redevelopment Authority	S340051-07	$7,245,000	$3,622,500
Woodbridge Township	S340433-10	$10,185,000	$5,092,500
Phillipsburg Redevelopment Agency	S340874-06	$10,290,000	$5,145,000
Total:		**$305,120,000**	**$152,560,000**

b. The following environmental infrastructure projects shall be known and may be cited as the "State Fiscal Year 2011 Drinking Water Project Priority List."

(1) Of those projects, the following are eligible for a combination of principal forgiveness and zero-interest loans from the department:

Project Sponsor	**Project Number**	**Estimated Total Allowable Loan Amount**	**Estimated Allowable DEP Loan Amount**
Trenton City	1111001-009	$14,070,000	$7,035,000
Aqua New Jersey Inc.	1103001-003	$1,365,000	$682,500

Camden County Board of Education	0415308-001	$525,000	$262,500
Sea Village Marina L.L.C.	0108021-002	$945,000	$472,500
Great Gorge Terrace Condominium Association	1922014-001	$1,050,000	$525,000
Lake Tamarack Water Company., Inc.	1911003-002	$105,000	$52,500
Egg Harbor City	0107001-002	$10,710,000	$5,355,000
Newark City	0714001-006	$9,345,000	$4,672,500
Camden City	0408001-018	$1,365,000	$682,500
NJ American Water Company, Inc.	0119002-005	$3,255,000	$1,627,500
Passaic Valley Water Commission.	1605002-012	$1,680,000	$840,000
Passaic Valley Water Commission	1605002-011	$2,415,000	$1,207,500
Passaic Valley Water Commission	1605002-013	$1,680,000	$840,000
NJ City University/ Jersey City MUA	0906001-005	$945,000	$472,500
Ocean Township	1520001-001	$1,365,000	$682,500
National Park Borough	0812001-001	$3,360,000	$1,680,000
East Orange City	0705001-008	$7,770,000	$3,885,000
Stone Harbor Borough	0510001-004	$945,000	$472,500
Maple Shade Township	0319001-005	$1,575,000	$787,500
Total:		**$64,470,000**	**$32,235,000**

(2) Of those projects, the following are eligible for zero-interest loans from the department:

Project Sponsor	**Project Number**	**Estimated Total Allowable Loan Amount**	**Estimated Allowable DEP Loan Amount**
Phillipsburg Redevelopment Agency/ Aqua NJ	2119001-006	$2,730,000	$1,365,000
Pemberton Borough	0328001-001	$840,000	$420,000
NJ American Water Company, Inc.	0712001-005	$82,005,000	$41,002,500
Sayreville Borough	1219001-007	$16,485,000	$8,242,500
Bordentown City	0303001-004	$630,000	$315,000
Clinton Town	1005001-001	$1,470,000	$735,000

Island Heights Borough	1510001-003	$3,150,000	$1,575,000
Plausha Park Water Company, Inc.	1421004-001	$210,000	$105,000
Greenbriar Residential Healthcare Facility. Inc.	1421305-001	$52,500	$26,250
Willingboro MUA	0338001-002	$10,605,000	$5,302,500
Long Beach Township	1517001-010	$2,310,000	$1,155,000
Lyndhurst Township	0232001-002	$2,625,000	$1,312,500
Lyndhurst Township	0232001-001	$12,390,000	$6,195,000
Beach Haven Borough	1503001-002	$2,730,000	$1,365,000
National Park Borough	0812001-003	$420,000	$210,000
Alpha Borough	2102001-001	$2,520,000	$1,260,000
Byram Homeowners Association. Water Company, Inc.	1904009-002	$315,000	$157,500
Middlesex Water Company, Inc.	1225001-012	$4,305,000	$2,152,500
NJ American Water Company, Inc./Free Acres Homeowners Association	0712001-010	$1,680,000	$840,000
NJ American Water Company, Inc./Free Acres Homeowners Association	0712001-011	$210,000	$105,000
Avalon Borough	0501001-001	$1,785,000	$892,500
Clinton Town	1005001-002	$3,150,000	$1,575,000
Aberdeen Township	1330002-002	$1,575,000	$787,500
Glen Ridge Borough	0708001-005	$945,000	$472,500
Allamuchy Township	2101001-003	$2,730,000	$1,365,000
Island Heights Borough	1510001-004	$315,000	$157,500
Byram Homeowners Assoc. Water Company, Inc.	1904009-005	$210,000	$105,000
Plausha Park Water Company, Inc.	1421004-002	$210,000	$105,000
Old Bridge MUA	1209002-007	$5,460,000	$2,730,000
Little Egg Harbor MUA	1516001-002	$420,000	$210,000
Waldwick Borough	0264001-002	$1,260,000	$630,000
Boonton Town	1401001-001	$1,365,000	$682,500
Island Heights Borough	1510001-002	$2,205,000	$1,102,500
Byram Homeowners Association Water Company, Inc.	1904009-004	$52,500	$26,250

Plausha Park Water Company, Inc.	1421004-003	$210,000	$105,000
NJ American Water Company, Inc.	1345001-013	$1,260,000	$630,000
NJ American Water Company, Inc.	0327001-011	$8,400,000	$4,200,000
NJ American Water Company, Inc.	0712001-012	$1,470,000	$735,000
NJ American Water Company, Inc.	0323001-002	$7,455,000	$3,727,500
Lakehurst Borough	1513001-001	$105,000	$52,500
Byram Homeowners Association Water Company, Inc.	1904009-001	$105,000	$52,500
Ocean Township	1520001-002	$315,000	$157,500
National Park Borough	0812001-002	$210,000	$105,000
Mount Olive Township	1427015-001	$1,050,000	$525,000
Byram Homeowners Association. Water Company, Inc.	1904009-003	$52,500	$26,250
Nutley Township	0716001-001	$3,255,000	$1,627,500
NJ Water Supply Authority	1352005-004	$4,305,000	$2,152,500
Total:		**$197,557,500**	**$98,778,750**

c. The Department of Environmental Protection is authorized to adjust the allowable DEP loan amount for projects authorized in this section to between 25% and 75% of the total allowable loan amount.

4. Any financing loan made by the Department of Environmental Protection pursuant to this act shall be subject to the following requirements:

a. The Commissioner of Environmental Protection has certified that the project is in compliance with the provisions of P.L.1977, c.224, P.L.1985, c.329, P.L.1992, c.88, P.L.1997, c.223, P.L.1997, c.225 or P.L.2003, c.162, and any rules and regulations adopted pursuant thereto;

b. The estimated allowable loan amount shall not exceed 75% of the allowable project cost of the environmental infrastructure facility, except that for projects related to land preservation the loan amount shall not exceed 50% of the allowable project cost. The loan amount for supplemental loans shall not exceed that percentage of the allowable project cost of the project's initial program loan;

c. The loan shall be repaid within a period not to exceed 23 years of the making of the loan;

d. The loan shall be subject to any other terms and conditions as may be established by the commissioner and approved by the State Treasurer, which may include, notwithstanding any other provision of law to the contrary, subordination of a loan authorized in this act to loans made by the trust pursuant to P.L.2010, c.62, or to administrative fees payable to the trust pursuant to subsection o. of section 5 of P.L.1985, c.334 (C.58:11B-5).

5. The priority lists and authorization for the making of loans pursuant to sections 2 and 3 of this act shall expire on July 1, 2011, and any project sponsor which has not executed and delivered a loan agreement with the department for a loan authorized in this act shall no longer be entitled to that loan.

6. The Commissioner of Environmental Protection is authorized to reduce or increase the individual amount of loan funds made available to or on behalf of project sponsors pursuant to sections 2 and 3 of this act based upon final or low bid building costs defined in and determined in accordance with rules and regulations adopted by the commissioner pursuant to section 4 of P.L.1985, c.329, section 2 of P.L.1999, c.362 (C.58:12A-12.2) or section 5 of P.L.1981, c.261, provided that the total loan amount does not exceed the original loan amount.

7. The expenditure of the funds appropriated by this act is subject to the provisions and conditions of P.L.1977, c.224, P.L.1985, c.329, P.L.1992, c.88, P.L.1997, c.223, P.L.1997, c.225 or P.L.2003, c.162, and the rules and regulations adopted by the Commissioner of Environmental Protection pursuant thereto, and the provisions of the Federal American Recovery and Reinvestment Act, the Federal Clean Water Act or the Federal Safe Drinking Water Act, and any amendatory and supplementary acts thereto, as appropriate.

8. The Department of Environmental Protection shall provide general technical assistance to any project sponsor requesting assistance regarding environmental infrastructure project development or applications for funds for a project.

9. a. Prior to repayment to the Clean Water State Revolving Fund pursuant to sections 1 and 2 of P.L.2009, c.77, prior to repayment to the "Wastewater Treatment Fund" pursuant to the provisions of section 16 of P.L.1985, c.329, prior to repayment to the "1992 Wastewater Treatment

Fund" pursuant to the provisions of section 28 of P.L.1992, c.88, prior to repayment to the Drinking Water State Revolving Fund, prior to repayment to the "Stormwater Management and Combined Sewer Overflow Abatement Fund" pursuant to the provisions of section 15 of P.L.1989, c.181, prior to repayment to the "2003 Water Resources and Wastewater Treatment Fund" pursuant to the provisions of section 20 of P.L.2003, c.162, or prior to repayment to the "Water Supply Fund" pursuant to the provisions of section 15 of P.L.1981, c.261, repayments of loans made pursuant to these acts may be utilized by the New Jersey Environmental Infrastructure Trust established pursuant to P.L.1985, c.334 (C.58:11B-1 et seq.), as amended and supplemented by P.L.1997, c.224, under terms and conditions established by the commissioner and trust, and approved by the State Treasurer, and consistent with the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) and federal tax, environmental or securities law, to the extent necessary to secure repayment of trust bonds issued to finance loans approved pursuant to P.L.2010, c.62, and to secure the administrative fees payable to the trust pursuant to subsection o. of section 5 of P.L.1985, c.334 (C.58:11B-5) by the project sponsors receiving trust loans.

b. Prior to repayment to the Clean Water State Revolving Fund pursuant to sections 1 and 2 of P.L.2009, c.77, prior to repayment to the "Wastewater Treatment Fund" pursuant to the provisions of section 16 of P.L.1985, c.329, prior to repayment to the "1992 Wastewater Treatment Fund" pursuant to the provisions of section 28 of P.L.1992, c.88, prior to repayment to the "Water Supply Fund" pursuant to the provisions of section 15 of P.L.1981, c.261, prior to repayment to the Drinking Water State Revolving Fund, prior to repayment to the "2003 Water Resources and Wastewater Treatment Fund" pursuant to the provisions of section 20 of P.L.2003, c.162, or prior to repayment to the "Stormwater Management and Combined Sewer Overflow Abatement Fund" pursuant to the provisions of section 15 of P.L.1989, c.181, the trust is further authorized to utilize repayments of loans made pursuant to P.L.1989, c.189, P.L.1990, c.99, P.L.1991, c.325, P.L.1992, c.38, P.L.1993, c.193, P.L.1994, c.106, P.L.1995, c.219, P.L.1996, c.85, P.L.1997, c.221, P.L.1998, c.84, P.L.1999, c.174, P.L.2000, c.92, P.L.2001, c.222, P.L.2002, c.70, P.L.2003, c.158, P.L.2004, c.109, P.L.2005, c.196, P.L.2006, c.68, P.L.2007, c.139, P.L.2008, c.68, P.L.2009, c.102 or P.L.2010, c.63 to secure repayment of trust bonds issued to finance loans approved pursuant to P.L.1995, c.218, P.L.1996, c.87, P.L.1997, c.222, P.L.1998, c.85, P.L.1999, c.173, P.L.2000, c.93, P.L.2001, c.224, P.L.2002, c.71, P.L.2003, c.159, P.L.2004, c.110, P.L.2005, c.197, P.L.2006, c.67, P.L.2007, c.140, P.L.2008, c.67, P.L.2009, c.101 or P.L.2010, c.62,

and to secure the administrative fees payable to the trust under these loans pursuant to subsection o. of section 5 of P.L.1985, c.334 (C.58:11B-5).

c. To the extent that any loan repayment sums are used to satisfy any trust bond repayment or administrative fee payment deficiencies, the trust shall repay such sums to the department for deposit into the Clean Water State Revolving Fund, the "Wastewater Treatment Fund," the "1992 Wastewater Treatment Fund," the "Water Supply Fund," the Drinking Water State Revolving Fund, the "2003 Water Resources and Wastewater Treatment Fund," or the "Stormwater Management and Combined Sewer Overflow Abatement Fund," as appropriate, from amounts received by or on behalf of the trust from project sponsors causing any such deficiency.

10. The Commissioner of Environmental Protection is authorized to enter into capitalization grant agreements as may be required pursuant to the Federal Clean Water Act, the Federal American Recovery and Reinvestment Act or the Federal Safe Drinking Water Act.

11. There is appropriated to the New Jersey Environmental Infrastructure Trust established pursuant to P.L.1985, c.334 (C.58:11B-1 et seq.) from repayments of loans and interest deposited in any account, on or before June 30, 2011, including the "Clean Water State Revolving Fund," the "1992 Wastewater Treatment Fund," the "Water Supply Fund," the "Stormwater Management and Combined Sewer Overflow Abatement Fund," "2003 Water Resources Wastewater Treatment Fund," or the Drinking Water State Revolving Fund, as appropriate, and from any net earnings received from the investment and reinvestment of such deposits, such sums as the chairman of the trust shall certify to the Commissioner of Environmental Protection to be necessary and appropriate for deposit into one or more reserve funds or the Interim Financing Program Fund established by the trust pursuant to section 11 of P.L.1985, c.334 (C.58:11B-11).

12. This act shall take effect immediately.

Approved August 31, 2010.

CHAPTER 64

AN ACT concerning environmental infrastructure projects, and amending P.L.1985, c.334.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Section 6 of P.L.1985, c.334 (C.58:11B-6) is amended to read as follows:

C.58:11B-6 Issuance of bonds, notes, other obligations.

6. a. Except as may be otherwise expressly provided in the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.), the trust may from time to time issue its bonds, notes or other obligations in any principal amounts as in the judgment of the trust shall be necessary to provide sufficient funds for any of its corporate purposes, including the payment, funding or refunding of the principal of, or interest or redemption premiums on, any bonds, notes or other obligations issued by it, whether the bonds, notes or other obligations or the interest or redemption premiums thereon to be funded or refunded have or have not become due, the establishment or increase of reserves or other funds to secure or to pay the bonds, notes or other obligations or interest thereon and all other costs or expenses of the trust incident to and necessary to carry out its corporate purposes and powers.

b. Whether or not the bonds, notes or other obligations of the trust are of a form and character as to be negotiable instruments under the terms of Title 12A of the New Jersey Statutes, the bonds, notes and other obligations are made negotiable instruments within the meaning of and for the purposes of Title 12A of the New Jersey Statutes, subject only to the provisions of the bonds, notes and other obligations for registration.

c. Bonds, notes or other obligations of the trust shall be authorized by a resolution or resolutions of the trust and may be issued in one or more series and shall bear any date or dates, mature at any time or times, bear interest at any rate or rates of interest per annum, be in any denomination or denominations, be in any form, either coupon, registered or book entry, carry any conversion or registration privileges, have any rank or priority, be executed in any manner, be payable in any coin or currency of the United States which at the time of payment is legal tender for the payment of public and private debts, at any place or places within or without the State, and be subject to any terms of redemption by the trust or the holders thereof, with or without premium, as the resolution or resolutions may provide. A resolution of the trust authorizing the issuance of bonds, notes or other obligations may provide that the bonds, notes or other obligations be secured by a trust indenture between the trust and a trustee, vesting in the trustee

any property, rights, powers and duties in trust consistent with the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.) as the trust may determine.

d. Bonds, notes or other obligations of the trust may be sold at any price or prices and in any manner as the trust may determine. Each bond, note or other obligation shall mature and be paid not later than 20 years from the effective date thereof, or the certified useful life of the project or projects to be financed by the bonds, whichever is less.

All bonds of the trust shall be sold at such price or prices and in such manner as the trust shall determine, after notice of sale, a summary of which shall be published at least once in at least three newspapers published in the State of New Jersey and at least once in a publication carrying municipal bond notices and devoted primarily to financial news published in New Jersey or the city of New York, the first summary notice to be at least five days prior to the day of bidding. The notice of sale may contain a provision to the effect that any or all bids made in pursuance thereof may be rejected. In the event of such rejection or of failure to receive any acceptable bid, the trust, at any time within 60 days from the date of such advertised sale, may sell such bonds at private sale upon terms not less favorable to the State than the terms offered by any rejected bid. The trust may sell all or part of the bonds of any series as issued to any State fund or to the federal government or any agency thereof, at private sale, without advertisement.

e. Bonds, notes or other obligations of the trust may be issued under the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.) without obtaining the consent of any department, division, board, bureau or agency of the State, and without any other proceedings or the happening of any other conditions or things, other than those consents, proceedings, conditions or things which are specifically required by P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.).

f. Bonds, notes or other obligations of the trust issued under the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.) shall not be a debt or liability of the State or of any political subdivision thereof other than the trust and shall not create or constitute any indebtedness, liability or obligation of the State or any political subdivision, but all these bonds, notes and other obligations, unless funded or refunded by bonds, notes or other obligations, shall be payable solely from revenues or funds pledged or available for their payment as authorized in P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.). Each bond, note and obligation shall contain on its face a statement

to the effect that the trust is obligated to pay the principal thereof or the interest thereon only from its revenues, receipts or funds pledged or available for their payment as authorized in P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.), and that neither the State, nor any political subdivision thereof, is obligated to pay the principal or interest and that neither the faith and credit nor the taxing power of the State, or any political subdivision thereof, is pledged to the payment of the principal of or the interest on the bonds, notes or other obligations.

g. The aggregate principal amount of bonds, notes or other obligations, including subordinated indebtedness of the trust, shall not exceed $2,800,000,000. In computing the foregoing limitations there shall be excluded all the bonds, notes or other obligations, including subordinated indebtedness of the trust, which shall be issued for refunding purposes, whenever the refunding shall be determined to result in a savings.

(1) Upon the decision by the trust to issue refunding bonds, except for current refunding, and prior to the sale of those bonds, the trust shall transmit to the Joint Budget Oversight Committee, or its successor, a report that a decision has been made, reciting the basis on which the decision was made, including an estimate of the debt service savings to be achieved and the calculations upon which the trust relied when making the decision to issue refunding bonds. The report shall also disclose the intent of the trust to issue and sell the refunding bonds at public or private sale and the reasons therefor.

(2) The Joint Budget Oversight Committee or its successor shall have the authority to approve or disapprove the sales of refunding bonds as included in each report submitted in accordance with paragraph (1) of this subsection. The committee shall notify the trust in writing of the approval or disapproval within 30 days of receipt of the report. Should the committee not act within 30 days of receipt of the report, the trust may proceed with the sale of the refunding bonds, provided that the sale of refunding bonds shall realize not less than 3.00% net present value debt service savings.

(3) No refunding bonds shall be issued unless the report has been submitted to and approved by the Joint Budget Oversight Committee or its successor as set forth in paragraphs (1) and (2) of this subsection.

(4) Within 30 days after the sale of the refunding bonds, the trust shall notify the committee of the result of that sale, including the prices and terms, conditions and regulations concerning the refunding bonds, the actual amount of debt service savings to be realized as a result of the sale of refunding bonds, and the intended use of the proceeds from the sale of those bonds.

(5) The committee shall review all information and reports submitted in accordance with this subsection and may, on its own initiative, make observations to the trust, or to the Legislature, or both, as it deems appropriate.

h. Each issue of bonds, notes or other obligations of the trust may, if it is determined by the trust, be general obligations thereof payable out of any revenues, receipts or funds of the trust, or special obligations thereof payable out of particular revenues, receipts or funds, subject only to any agreements with the holders of bonds, notes or other obligations, and may be secured by one or more of the following:

(1) Pledge of revenues and other receipts to be derived from the payment of the interest on and principal of notes, bonds or other obligations issued to the trust by one or more local government units, and any other payment made to the trust pursuant to agreements with any local government units, or a pledge or assignment of any notes, bonds or other obligations of any local government unit and the rights and interest of the trust therein;

(2) Pledge of rentals, receipts and other revenues to be derived from leases or other contractual arrangements with any person or entity, public or private, including one or more local government units, or a pledge or assignment of those leases or other contractual arrangements and the rights and interest of the trust therein;

(3) Pledge of all moneys, funds, accounts, securities and other funds, including the proceeds of the bonds, notes or other obligations;

(4) Pledge of the receipts to be derived from the payments of State aid, payable to the trust pursuant to section 12 of P.L.1985, c.334 (C.58:11B-12);

(5) A mortgage on all or any part of the property, real or personal, of the trust then owned or thereafter to be acquired, or a pledge or assignment of mortgages made to the trust by any person or entity, public or private, including one or more local government units and the rights and interest of the trust therein.

i. The trust shall not issue any bonds, notes or other obligations, or otherwise incur any additional indebtedness, on or after June 30, 2031.

j. (Deleted by amendment, P.L.1996, c.88).

2. Section 9 of P.L.1985, c.334 (C.58:11B-9) is amended to read as follows:

C.58:11B-9 Loans to local governments.

9. a. (1) The trust may make and contract to make loans to local government units, or to a local government unit on behalf of another local government unit, in accordance with and subject to the provisions of P.L.1985,

c.334 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.) to finance the cost of any wastewater treatment system project or water supply project, which the local government unit may lawfully undertake or acquire and for which the local government unit is authorized by law to borrow money.

(2) The trust may make and contract to make loans to public water utilities, or to any other person or local government unit on behalf of a public water utility, in accordance with and subject to the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.) to finance the cost of any water supply project, which the public water utility may lawfully undertake or acquire.

(3) The trust may make and contract to make loans to private persons other than local government units, or to any other person or local government unit on behalf of a private person, in accordance with and subject to the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.) to finance the cost of stormwater management systems.

The loans may be made subject to those terms and conditions as the trust shall determine to be consistent with the purposes thereof. Each loan by the trust and the terms and conditions thereof shall be subject to approval by the State Treasurer, and the trust shall make available to the State Treasurer all information, statistical data and reports of independent consultants or experts as the State Treasurer shall deem necessary in order to evaluate the loan. Each loan to a local government unit, public water utility or any other person shall be evidenced by notes, bonds or other obligations thereof issued to the trust. In the case of each local government unit, notes and bonds to be issued to the trust by the local government unit (1) shall be authorized and issued as provided by law for the issuance of notes and bonds by the local government unit, (2) shall be approved by the Local Finance Board in the Division of Local Government Services in the Department of Community Affairs, and (3) notwithstanding the provisions of N.J.S.40A:2-27, N.J.S.40A:2-28 and N.J.S.40A:2-29 or any other provisions of law to the contrary, may be sold at private sale to the trust at any price, whether or not less than par value, and shall be subject to redemption prior to maturity at any times and at any prices as the trust and local government units may agree. Each loan to a local government unit, public water utility or any other person and the notes, bonds or other obligations thereby issued shall bear interest at a rate or rates per annum as the trust and the local government unit, public water utility or any other person, as the case may be, may agree.

b. The trust is authorized to guarantee or contract to guarantee the payment of all or any portion of the principal and interest on bonds, notes or other obligations issued by a local government unit to finance the cost of any wastewater treatment system project or water supply project, which the local government unit may lawfully undertake or acquire and for which the local government unit is authorized by law to borrow money, and the guarantee shall constitute an obligation of the trust for the purposes of P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.). Each guarantee by the trust and the terms and conditions thereof shall be subject to approval by the State Treasurer, and the trust shall make available to the State Treasurer all information, statistical data and reports of independent consultants or experts as the State Treasurer shall deem necessary in order to evaluate the guarantee.

c. The trust shall not make or contract to make any loans or guarantees to local government units, public water utilities or any other person, or otherwise incur any additional indebtedness, on or after June 30, 2031.

d. Notwithstanding any provision of P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.) to the contrary, the trust may receive funds from any source or issue its bonds, notes or other obligations in any principal amounts as in the judgment of the trust shall be necessary to provide sufficient funds to finance or refinance short-term or temporary loans to local government units, public water utilities or private persons for any wastewater treatment system projects included on the project priority list for the ensuing fiscal year and eligible for approval pursuant to section 20 of P.L.1985, c.334 (C.58:11B-20) or water supply projects included on the project priority list for the ensuing fiscal year and eligible for approval pursuant to section 24 of P.L.1997, c.224 (C.58:11B-20.1), as applicable, without regard to any other provisions of P.L.1985, c.334 or P.L.1997, c.224, including, without limitation, any administrative or legislative approvals.

The trust shall create and establish a special fund (hereinafter referred to as the "Interim Financing Program Fund") for the short-term or temporary loan financing or refinancing program (hereinafter referred to as the "Interim Financing Program").

Any short-term or temporary loans made by the trust pursuant to this subsection may only be made in advance of the anticipated loans the trust may make and contract to make under the provisions of subsection a. of this section from any source of funds anticipated to be received by the trust. The trust may make short-term or temporary loans pursuant to the Interim Financing Program to any one or more of the project sponsors, for the re-

spective projects thereof, identified in the interim financing project priority list (hereinafter referred to as the "Interim Financing Program Eligibility List") in the form provided to the Legislature by the Commissioner of Environmental Protection.

Incremental revisions or supplements to the Interim Financing Program Eligibility List may be submitted to the Legislature at any time between January 15th and May 15th of each year.

The Interim Financing Program Eligibility List, including any revision thereof or supplement thereto, shall be submitted to the Legislature on or before June 30 of each year on a day when both Houses are meeting. The President of the Senate and the Speaker of the General Assembly shall cause the date of submission to be entered upon the Senate Journal and the Minutes of the General Assembly, respectively. Any environmental infrastructure project or the project sponsor thereof not identified in the Interim Financing Program Eligibility List shall not be eligible for a short-term or temporary loan from the Interim Financing Program Fund.

3. This act shall take effect immediately.

Approved August 31, 2010.

CHAPTER 65

AN ACT establishing a permanent Interdistrict Public School Choice Program, supplementing chapter 36B of Title 18A of the New Jersey Statutes, and repealing parts of the statutory law.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

C.18A:36B-14 Short title.

1. This act shall be known and may be cited as the "Interdistrict Public School Choice Program Act."

C.18A:36B-15 Definitions relative to public school choice.

2. As used in this act:

"Choice district" means a public school district, established pursuant to chapter 8 or chapter 13 of Title 18A of the New Jersey Statutes, which is authorized under the interdistrict public school choice program to open a school or schools to students from sending districts;

"Commissioner" means the Commissioner of Education;

"Sending district" means the district of residence of a choice student.

C.18A:36B-16 Interdistrict public school choice program.

3. The Commissioner of Education shall establish an interdistrict public school choice program which shall provide for the creation of choice districts. A choice district may enroll students across district lines in designated schools of the choice district.

C.18A:36B-17 Application by district for choice program.

4. a. A proposed choice district shall submit an application to the commissioner no later than April 30 in the year prior to the school year in which the choice program will be implemented; except that for the first year of implementation of the program pursuant to P.L.2010, c.65 (C.18A:36B-14 et seq.), the application shall be submitted no later than the date specified by the commissioner. The application shall include, but not be limited to, the following information:

(1) a description of programs and schools and the number of student openings in each school identified by grade level which are available for selection;

(2) the provision for the creation of a parent information center;

(3) a description of the student application process and any criteria required for admission; and

(4) an analysis of the potential impact of the program on student population diversity in all potential participating districts and a plan for maintaining diversity in all potential participating districts, which plan shall not be used to supersede a court-ordered or administrative court-ordered desegregation plan.

The commissioner shall notify a choice district of the approval or disapproval of its application no later than July 30, and the reasons for disapproval shall be included in the notice; except that for the first year of implementation of the program pursuant to P.L.2010, c.65 (C.18A:36B-14 et seq.), notification shall be no later than the date specified by the commissioner.

The commissioner shall notify the State Board of Education of the approval of a choice district application and the State board shall include a public notice of the approval on the next agenda for its public monthly meeting.

b. The commissioner may take appropriate action, consistent with State and federal law, to provide that student population diversity in all districts participating in a choice district program is maintained. Student

population diversity shall include, but not be limited to, the ethnic, racial, economic, and geographic diversity of a district's student population. The actions may include, but need not be limited to:

(1) directing a choice district to take appropriate steps to implement successfully the district's plan for maintaining student population diversity;

(2) restricting the number of choice students from a sending district or the authority of a choice district to accept choice students in the future; and

(3) revoking approval of the choice district. Any choice student who is attending a designated school in a choice district at the time of the commissioner's revocation of approval shall be entitled to continue to be enrolled in that school until graduation.

C.18A:36B-18 Evaluation of district's application.

5. The commissioner shall evaluate an application submitted by a proposed choice district according to the following criteria:

a. the fiscal impact on the district;

b. the quality and variety of academic programs offered within the district;

c. the potential effectiveness of the student application process and of the admissions criteria utilized;

d. the impact on student population diversity in the district; and

e. the degree to which the program will promote or reduce educational quality in the choice district and the sending districts.

C.18A:36B-19 Current choice districts unaffected.

6. Any choice district established by the commissioner prior to the effective date of P.L.2010, c.65 (C.18A:36B-14 et seq.) is authorized to continue operation as if the choice district had been approved pursuant to the provisions of P.L.2010, c.65 (C.18A:36B-14 et seq.).

C.18A:36B-20 Applications by student to choice district.

7. a. The parents or guardian of a student shall notify the sending district of the student's intention to participate in the choice program and shall submit an application to the choice district, indicating the school the student wishes to attend, no later than the date specified by the commissioner. To be eligible to participate in the program, a student shall be enrolled at the time of application in grades preschool through 12 in a school of the sending district and have attended school in the sending district for at least one full year immediately preceding enrollment in the choice district, provided that a "sending district" includes any school district that a student in a

particular district of residence is required by law to attend. The one-year requirement shall not apply to a student enrolling in preschool or kindergarten in the choice district, if that student has a sibling enrolled in the choice district. Openings in a designated school of a choice district shall be on a space-available basis, and if more applications are received for a designated school than there are spaces available, a lottery shall be held to determine the selection of students. Preference for enrollment may be given to siblings of students who are enrolled in a designated school.

If there is an opening in a designated school of a choice district and there is no student who is enrolled in a sending district who meets the attendance requirements of this subsection, including a student who has been placed on a waiting list based on a lottery held in the choice district, then the choice district may fill that opening with a public school student who does not meet the attendance requirements of this subsection or a nonpublic school student.

b. A choice district may evaluate a prospective student on the student's interest in the program offered by a designated school. The district shall not discriminate in its admission policies or practices on the basis of athletic ability, intellectual aptitude, English language proficiency, status as a handicapped person, or any basis prohibited by State or federal law.

c. A choice district shall not prohibit the enrollment of a student based upon a determination that the additional cost of educating the student would exceed the amount of additional State aid received as a result of the student's enrollment. A choice district may reject the application for enrollment of a student who has been classified as eligible for special education services pursuant to chapter 46 of Title 18A of the New Jersey Statutes if that student's individualized education program could not be implemented in the district, or if the enrollment of that student would require the district to fundamentally alter the nature of its educational program, or would create an undue financial or administrative burden on the district.

d. A student whose application is rejected by a choice district shall be provided with a reason for the rejection in the letter of notice. The appeal of a rejection notice may be made to the commissioner.

e. Once a student is enrolled in a designated school, the student shall not be required to reapply each school year for enrollment in any designated school of the choice district and shall continue to be permitted to be enrolled until graduation. A student shall be permitted to transfer back to a school of the sending district or may apply to a different choice district during the next application period.

f. A choice district shall accept all of the credits earned toward graduation by a student in the schools of the sending district.

g. A choice district shall notify a sending district upon the enrollment of a choice student resident in that district.

C.18A:36B-21 Enrollment restrictions.

8. a. (1) The school board of a sending district may adopt a resolution to restrict enrollment of its students in a choice district to a maximum of 10% of the number of students per grade level per year limited by any resolution adopted pursuant to this paragraph and 15% of the total number of students enrolled in the sending district, provided that the resolution shall be subject to approval by the commissioner upon a determination that the resolution is in the best interest of the district's students and that it will not adversely affect the district's programs, services, operations, or fiscal conditions, and that the resolution will not adversely affect or limit the diversity of the remainder of the student population in the district who do not participate in the choice program.

(2) Enrollment restriction percentages adopted by any resolution pursuant to paragraph (1) of this subsection shall not be compounded from year to year and shall be based upon the enrollment counts for the year preceding the sending district's initial year of participation in the choice program, except that in any year of the program in which there is an increase in enrollment, the percentage enrollment restriction may be applied to the increase and the result added to the preceding year's count of students eligible to attend a choice district. If there is a decrease in enrollment at any time during the duration of the program, the number of students eligible to attend a choice district shall be the number of students enrolled in the choice program in the initial year of the district's participation in the program, provided that a student attending a choice district school shall be entitled to remain enrolled in that school until graduation.

(3) The calculation of the enrollment of a sending district shall be based on the enrollment count as reported on the Application for State School Aid in October preceding the school year during which the restriction on enrollment shall be applicable.

b. A choice district shall not be eligible to enroll students on a tuition basis pursuant to N.J.S.18A:38-3 while participating in the interdistrict public school choice program. Any student enrolled on a tuition basis prior to the establishment of the choice program shall be entitled to remain enrolled in the choice district as a choice student.

C.18A:36B-22 Provision of transportation, aid in-lieu-of transportation.

9. a. Transportation, or aid in-lieu-of transportation, shall be provided to an elementary school pupil who lives more than two miles from the choice district school of attendance and to a secondary school pupil who lives more than two and one-half miles from the choice district school of attendance, provided the choice district school is not more than 20 miles from the residence of the pupil. Transportation, or aid in-lieu-of transportation, shall be the responsibility of the sending district. The choice district and the sending district may enter into a shared service agreement in accordance with the "Uniform Shared Services and Consolidation Act," sections 1 through 35 of P.L.2007, c.63 (C.40A:65-1 through C.40A:65-35).

b. Notwithstanding the provisions of section 20 of P.L.2007, c.260 (C.18A:7F-62) to the contrary, the sending district shall receive State aid for transportation calculated pursuant to section 15 of P.L.2007, c.260 (C.18A:7F-57) for a student transported or receiving aid-in-lieu-of transportation pursuant to subsection a. of this section.

C.18A:36B-23 Parent information center.

10. A choice district shall establish and maintain a parent information center. The center shall collect and disseminate information about participating programs and schools and shall assist parents and guardians in submitting applications for enrollment of students in an appropriate program and school. The information about participating programs and schools shall be posted on the choice district's website.

C.18A:36B-24 Annual report.

11. The commissioner shall annually report to the State Board of Education, the Legislature, and the Joint Committee on the Public Schools on the effectiveness of the interdistrict public school choice program. The commissioner's annual report shall be posted on the Department of Education's website and on the website of each choice district.

Repealer.

12. Sections 1 through 10 and 14 through 17 of P.L.1999, c.413 (C.18A:36B-1 through 18A:36B-13) are repealed.

13. This act shall take effect immediately.

Approved September 9, 2010.

CHAPTER 66

AN ACT concerning emergency operations plans and supplementing and amending P.L.1989, c.222.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

C.App.A:9-43.7 Emergency plans, electronic submission by certain entities permitted.

1. a. Any entity, organization, or educational institution, be it public or private, that submits an emergency operations or evacuation plan to the State Office of Emergency Management may submit that plan in a secure electronic format by way of any electronic means capable of sending, submitting or presenting confidential information.

b. School districts required by regulation to develop and implement comprehensive plans, procedures and mechanisms that provide for safety and security in the public and private elementary schools may transmit those plans, procedures and mechanisms, when appropriate, in a secure electronic format by way of any electronic means capable of sending, submitting or presenting confidential information.

c. The State Office of Emergency Management may adopt rules, regulations, and guidelines, to effectuate the purposes of this act.

2. Section 21 of P.L.1989, c.222 (C.App.A:9-43.4) is amended to read as follows:

C.App.A:9-43.4 Approval by State Office of Emergency Management.

21. Each county and municipality shall submit an Emergency Operations Plan to the State Office of Emergency Management, which may be submitted in a secure electronic form by way of any electronic means capable of sending, submitting or presenting confidential information. No Emergency Operations Plan shall take effect without approval by the State Office of Emergency Management. The State Office of Emergency Management shall review the plans and determine their compatibility with the State Emergency Operations Plan Guidelines and shall either approve, conditionally approve, or disapprove the plan. The State Office of Emergency Management shall set forth in writing its reasons for disapproval of any plan or, in the case of the issuance of a conditional approval, shall specify the necessary amendments to the plan. If the State Office of Emergency Management fails to approve, conditionally approve, or disapprove an

Emergency Operations Plan within 60 days of receipt of the plan, it shall be considered approved by the State Office of Emergency Management.

3. This act shall take effect immediately.

Approved September 9, 2010.

CHAPTER 67

AN ACT concerning information on child abuse and neglect and amending P.L.1998, c.136.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Section 1 of P.L.1998, c.136 (C.26:2H-12.6a) is amended to read as follows:

C.26:2H-12.6a Preparation, distribution of resource guide providing information on child abuse, neglect.

1. a. The Department of Children and Families, in consultation with the Department of Health and Senior Services, shall prepare a resource guide in both English and Spanish which provides information on child abuse and neglect to all parents of newborn infants born in this State. The resource guide shall be distributed to each parent present during the infant's birth, by the personnel at a hospital or birthing facility, prior to the mother's discharge, as part of the hospital or birthing facility's discharge procedures.

b. The resource guide shall include information on the signs of child abuse and neglect, the services provided by the State which help in preventing child abuse and neglect, including the availability of home visitation resources, the legal ramifications of abusing or neglecting a child, and tips on child safety.

c. The department shall distribute the resource guide, at no charge, to all the hospitals and birthing facilities in the State. The department shall update the resource guide as necessary, and shall make additional copies of the resource guide available to health care providers upon request.

d. In addition to the resource guide prepared pursuant to subsection a. of this section, the department, in consultation with the Department of Health and Senior Services, shall prepare a pamphlet in both English and Spanish that includes information on the prevention of shaken baby syn-

drome and detailed suggestions for how to cope with a crying baby. The pamphlet shall be distributed to each parent present during the infant's birth, by the personnel at a hospital or birthing facility, prior to the mother's discharge, as part of the hospital or birthing facility's discharge procedures. The department shall: distribute the pamphlet, at no charge, to all hospitals and birthing facilities in the State; update the pamphlet as necessary; and make additional copies of the pamphlet available to health care providers upon request.

2. This act shall take effect immediately.

Approved September 9, 2010.

CHAPTER 68

AN ACT concerning the signers and circulators of petitions of nomination in elections, and amending various parts of the statutory law.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. R.S.19:13-5 is amended to read as follows:

Signatures to petition; number.

19:13-5. The petition shall be signed by legally qualified voters of this State residing within the district or political division in and for which the officer or officers nominated are to be elected, equal in number to at least two per centum (2%) of the entire vote cast for members of the General Assembly at the last preceding general election, held for the election of all of the members of the General Assembly, in the State, county, district or other political division in and for which the nominations are made; except that when the nomination is for an office to be filled by the voters of the entire State eight hundred signatures in the aggregate for each candidate nominated in the petition shall be sufficient; and except that no more than one hundred signatures shall be required to any petition for any officers to be elected save only such as are to be voted for by the voters of the State at large.

In case of a first general election to be held in a newly established election district, county, city or other political division, the number of fifty signatures to a petition shall be sufficient to nominate a candidate to be voted for only in such election district, county, city or other political division.

A candidate shall be permitted to sign or circulate, or both sign and circulate, the petition required to nominate that candidate for elective public office.

2. R.S.19:13-7 is amended to read as follows:

Certification of petition.

19:13-7. Before any petition shall be filed as hereinafter provided, at least one of the voters signing the same, or a candidate who signs or circulates, or both signs and circulates, such a petition, shall make oath before a duly qualified officer that the petition is made in good faith, that the affiant saw all the signatures made thereto and verily believes that the signers are duly qualified voters.

3. R.S.19:23-10 is amended to read as follows:

Single or several petitions; signing rules and regulations.

19:23-10. Not all of the names of petitioners need be signed to a single petition, but any number of petitions of the same purport may be filed; but in the aggregate the signatures thereto indorsing any one person shall be the number required by this title. The signers to petitions shall not therein indorse or recommend more persons as candidates for the position than are to be chosen at the ensuing primary election in the State or political subdivision in which the signers to the petition reside, nor shall such signers indorse more persons as candidates for nomination to office than are to be elected in the state or political subdivision.

No member of one political party shall sign his name to any petition purporting to indorse any person as a candidate for office of another political party.

A candidate shall be permitted to sign or circulate, or both sign and circulate, the petition required for that candidate to seek nomination for elective office.

4. R.S.19:23-11 is amended to read as follows:

Verification of petitions.

19:23-11. Such petitions shall be verified by the oath or affirmation of one or more of the signers thereof, including a candidate who signs or circulates, or both signs and circulates, such a petition, taken and subscribed before a person qualified under the laws of New Jersey to administer an oath, to the effect that the petition is signed by each of the signers thereof in his proper handwriting; that the signers are to the best knowledge and belief of the affiant legal voters of the State or political subdivision thereof, as the

case may be, as stated in the petition, belong to the political party named in the petition, and that the petition is prepared and filed in absolute good faith for the sole purpose of indorsing the person or persons therein named, in order to secure his or their nomination or selection as stated in such petition.

5. Section 5 of P.L.1995, c.278 (C.19:60-5) is amended to read as follows:

C.19:60-5 Petition of nomination; contents.

5. Notwithstanding the provisions of R.S.19:13-4, each nominating petition for a candidate to be voted upon at a school election shall be addressed to the secretary of the board of education and therein shall be set forth:

a. A statement that the signers of the petition are all qualified voters of the school district or, in the case of a regional school district, qualified voters of the constituent district which the candidate shall represent on the board of education of the regional district;

b. The name, residence and post office address of the person endorsed and the office for which he is endorsed;

c. That the signers of the petition endorse the candidate named in the petition for that office and request that the person's name be printed upon the official ballot to be used at the ensuing election; and

d. That the person so endorsed is legally qualified to be elected to the office.

A candidate shall be permitted to sign or circulate, or both sign and circulate, the petition required to nominate that candidate for membership on the board.

Any form of a petition of nomination hereunder which is provided to candidates in a school election shall contain the following notice: "Notice: All candidates are required by law to comply with the provisions of 'The New Jersey Campaign Contributions and Expenditures Reporting Act.' For further information, please call (insert phone number of the Election Law Enforcement Commission)."

6. Section 4 of P.L.1981, c.379 (C.40:45-8) is amended to read as follows:

C.40:45-8 Petitions of nomination.

4. On or before the 57th day prior to a regular municipal election, the names of candidates for all elective offices shall be filed with the municipal clerk, in the following manner and form and subject to the following conditions:

a. The petition of nomination shall consist of individual certificates, equal in number to at least 1%, but in no event less than 25, of the registered voters of the municipality or the ward, as the case may be, and shall read substantially as follows:

"I, the undersigned, a registered voter of the municipality of ....., residing at ..... certify that I do hereby join in a petition of the nomination of ..... whose residence is at ..... for the office of mayor (or councilman-at-large, or ward councilman of the ..... ward, or commissioner, or village trustee, as the case may be) to be voted for at the election to be held in the municipality on the ....., 20....., and I further certify that I know this candidate to be a registered voter, for the period required by law, of the municipality (and the ward, in the case of ward councilman) and a person of good moral character, and qualified, in my judgment, to perform the duties of the office, and I further certify that I have not signed more petitions or certificates of nomination than there are places to be filled for the above office.

Signed ..... ."

Any such petition of nomination which is provided to candidates by the municipal clerk shall contain the following notice: "Notice: All candidates are required by law to comply with the provisions of the 'New Jersey Campaign Contributions and Expenditures Reporting Act.' For further information, please call (insert phone number of the Election Law Enforcement Commission)."

b. Each petition signature shall be on a separate sheet of paper and shall bear the name and address of the petitioner. The candidate for office and his campaign manager shall make an oath before an officer competent to administer oaths that the statements made therein are true, and that each signature to the papers appended thereto is the genuine signature of the person whose name it purports to be, to their best knowledge and belief. The oath, signed by the candidate, shall constitute his acceptance of nomination and shall be annexed to the petition, together with the oath of his campaign manager, at the time the petition is submitted.

c. The municipal clerk shall immediately provide the Election Law Enforcement Commission with official certification of the filing or withdrawal of a petition of nomination.

d. A candidate shall be permitted to sign or circulate, or both sign and circulate, the petition required to nominate that candidate for elective public office in any municipality holding regular municipal elections.

7. Section 1 of P.L.1971, c.197 (C.40A:14-71) is amended to read as follows:

C.40A:14-71 Nominating petitions.

1. Candidates for membership on the board shall be nominated by verified petitions. Any such petition shall be in writing, addressed to the municipal clerk or the clerk of the board, as the case may be, stating that the signers thereof are qualified voters and residents in the district and requesting that the name of the candidate be placed on the official ballot. The petition shall state the residence of the candidate and certify his qualification for membership. The candidate's consent to his nomination shall be annexed to the petition and shall constitute his agreement to serve in the event of his election. The petition shall contain the name of only one candidate, but several petitions may nominate the same person. Each petition shall be signed by not less than 10 qualified voters and shall be filed at least 29 days before the date of the election.

Any form of a petition of nomination which is provided to candidates by the Secretary of State, the county clerk, or the municipal clerk shall contain the following notice: "Notice: All candidates are required by law to comply with the provisions of 'The New Jersey Campaign Contributions and Expenditures Reporting Act,' P.L.1973, c.83 (C.19:44A-1 et seq.). For further information please call (insert telephone number of the Election Law Enforcement Commission)."

If a petition is found to be defective, either in form or substance, the municipal clerk or the clerk of the board, as the case may be, shall forthwith notify the candidate to cause it to be corrected before the petition is given consideration.

A candidate shall be permitted to sign or circulate, or both sign and circulate, the petition required to nominate that candidate for membership on the board.

8. This act shall take effect on January 1 next following the date of enactment.

Approved September 9, 2010.

CHAPTER 69

AN ACT concerning children placed in resource family homes, amending P.L.1979, c.207, and amending and supplementing P.L.1951, c.138.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Section 19 of P.L.1979, c.207 (C.18A:7B-12) is amended to read as follows:

C.18A:7B-12 Determination of district of residence.

19. For school funding purposes, the Commissioner of Education shall determine district of residence as follows:

a. (1) In the case of a child placed in a resource family home prior to the effective date of P.L.2010, c.69 (C.30:4C-26b et al.), the district of residence shall be the district in which the resource family parents reside. If such a child in a resource family home is subsequently placed in a State facility or by a State agency, the district of residence of the child shall then be determined as if no such resource family placement had occurred.

(2) In the case of a child placed in a resource family home on or after the effective date of P.L.2010, c.69 (C.30:4C-26b et al.), the district of residence shall be the present district of residence of the parent or guardian with whom the child lived prior to the most recent placement in a resource family home.

b. The district of residence for children who are in residential State facilities, or who have been placed by State agencies in group homes, skill development homes, private schools or out-of-State facilities, shall be the present district of residence of the parent or guardian with whom the child lived prior to his most recent admission to a State facility or most recent placement by a State agency.

c. The district of residence for children whose parent or guardian temporarily moves from one school district to another as the result of being homeless shall be the district in which the parent or guardian last resided prior to becoming homeless. For the purpose of this amendatory and supplementary act, "homeless" shall mean an individual who temporarily lacks a fixed, regular and adequate residence.

d. If the district of residence cannot be determined according to the criteria contained herein, or if the criteria contained herein identify a district of residence outside of the State, the State shall assume fiscal responsibility for the tuition of the child. The tuition shall equal the approved per pupil cost established pursuant to section 24 of P.L.1996, c.138 (C.18A:7F-24). This amount shall be appropriated in the same manner as other State aid under this act. The Department of Education shall pay the amount to the Department of Human Services, the Department of Children and Families,

the Department of Corrections or the Juvenile Justice Commission established pursuant to section 2 of P.L.1995, c.284 (C.52:17B-170) or, in the case of a homeless child or a child in a family resource home, the Department of Education shall pay to the school district in which the child is enrolled the weighted base per pupil amount calculated pursuant to section 7 of P.L.2007, c.260 (C.18A:7F-49) and the appropriate security categorical aid per pupil and special education categorical aid per pupil.

e. If the State has assumed fiscal responsibility for the tuition of a child in a private educational facility approved by the Department of Education to serve children who are classified as needing special education services, the department shall pay to the Department of Human Services, the Department of Children and Families or the Juvenile Justice Commission, as appropriate, the aid specified in subsection d. of this section and in addition, such aid as required to make the total amount of aid equal to the actual cost of the tuition.

2. Section 26 of P.L.1951, c.138 (C.30:4C-26) is amended to read as follows:

C.30:4C-26 Placing child in resource family home or institution.

26. a. Whenever the circumstances of a child are such that his needs cannot be adequately met in his own home, the division may effect his placement in a resource family home, with or without payment of board, in a group home, or in an appropriate institution if such care is deemed essential for him. The division shall make every reasonable effort to select a resource family home, a group home or an institution of the same religious faith as the parent or parents of such child.

b. Whenever the division places any child, as provided by this section, in any municipality and county of this State, the child shall be deemed a resident of such municipality and county for all purposes except school funding, and he shall be entitled to the use and benefit of all health, recreational, vocational and other facilities of such municipality and county in the same manner and extent as any other child living in such municipality and county.

c. Whenever the division shall place any child, as provided by this section, in any school district, the child shall be entitled to the educational benefits of the district determined pursuant to section 3 of P.L.2010, c.69 (C.30:4C-26b); provided, however, that the district of residence, as determined by the Commissioner of Education pursuant to law, shall be responsible for paying, as applicable, tuition and transportation costs for such child to the district in which he is placed.

d. No municipality shall enact a planning or zoning ordinance governing the use of land by, or for, single family dwellings which shall, by any of its terms or provisions or by any rule or regulation adopted in accordance therewith, discriminate between children who are members of such single families by reason of their relationship by blood, marriage or adoption, children placed with such families in such dwellings by the division or other entity designated by the Commissioner of Children and Families, and children placed pursuant to law with families in single family dwellings known as group homes.

Any planning or zoning ordinance, heretofore or hereafter enacted by a municipality, which violates the provisions of this section, shall be invalid and inoperative.

C.30:4C-26b Child in resource family home, determination of school placement.

3. a. Whenever the Division of Youth and Family Services in the Department of Children and Families places any child in a resource family home, including a change in a placement following the initial placement, there shall be a presumption that the child shall remain in the school currently attended by the child and the child shall remain in that school, pending a best interest determination as set forth in subsection c. of this section, unless the division determines that the circumstances provided in subsection b. of this section are present.

b. If the division determines that remaining in the present school is not in the best interest of the child upon consideration of the best interest factors listed in subsection f. of this section, and would present significant safety concerns or otherwise be a significant and immediate detriment to the child, the child may be immediately enrolled in the school district in which the resource family home is located. If the division enrolls the child in the school district in which the resource family home is located, pursuant to this subsection, the division shall, within two business days of taking such action, provide notice to the child's law guardian and a parent or legal guardian, of the new school placement and the basis for such action. If the division determines there exists a credible safety issue for the child if the location of the school in the resource family's district is disclosed to the parent or legal guardian, the division shall not include the location of that school or other information about the identity of the school in the notice to the parent or legal guardian.

c. Except as provided in subsection b. of this section, within five business days of placement in a resource family home, the division shall make a determination, upon consideration of the best interest factors listed

in subsection f. of this section, whether the presumption that the child continue to attend the school that the child currently attends is outweighed by the best interest factors supporting placement in the school district in which the resource family home is located.

In making that determination, the division shall make reasonable efforts to consult with a parent or guardian of the child, the child, the child's law guardian, a representative from the school the child attended at the time of removal, and any school district under consideration for placement.

d. If the division's determination, pursuant to subsection c. of this section, is that it is in the best interest of the child to enroll the child in the school district in which the resource family home is located, the determination shall remain preliminary pending the completion of the requirements of this subsection. If the division's determination is consistent with the presumption established pursuant to subsection a. of this section, the determination shall be deemed conclusive at the time the determination is made.

(1) The division shall immediately transmit a written notice to the child's law guardian and a parent or legal guardian of the child: (a) advising of the preliminary determination; (b) providing the basis for the preliminary determination; and (c) that the preliminary determination shall be deemed conclusive if the division does not receive notice that an application pursuant to this subsection has been made with the court by the date indicated on the notice, which date shall be five business days from the date the notice is transmitted by the division.

The child shall remain enrolled in his current school at least until the time allotted to seek a court review of the preliminary determination is exhausted.

(2) Any party may make an application with the court seeking a review of whether the division's preliminary determination is in the best interest of the child upon consideration of the best interest factors listed in subsection f. of this section within the time allotted by the division as specified in the division's notice, which date shall be five business days from the date the notice is transmitted by the division, unless the child's law guardian, on behalf of the child, and a parent or legal guardian of the child agrees, in writing, to waive the opportunity for a court review of the preliminary determination pursuant to this subsection, in which case the determination becomes conclusive.

Any party who makes an application for court review of the preliminary determination pursuant to this subsection shall provide simultaneous notice to the division and all other parties involved in the division's complaint for custody and guardianship. The court shall hear and decide such

application in an expedited manner. In any such proceedings, the division shall bear the burden of proof, based on a preponderance of the evidence, that its determination to enroll the child in the school district in which the resource family home is located is in the best interest of the child.

If a party makes an application for court review of the division's preliminary determination pursuant to this subsection, the child shall continue to attend his current school while the court hears and decides the application.

(3) If the division does not receive timely notice pursuant to paragraph (2) of this subsection that an application has been made for court review within five business days of the transmittal date of the notice of the preliminary determination, the preliminary determination shall be deemed conclusive and the division shall implement its determination as provided in subsection g. of this section.

e. (1) At any time during placement of a child in a resource family home, the court may, upon application by any party to the division's complaint for custody or guardianship, review the child's school placement upon consideration of the best interest factors listed in subsection f. of this section, and make appropriate orders regarding school placement.

(2) At any time during placement in a resource family home, the division may reconsider the child's school placement and make a new determination in accordance with subsection b. or c. and d. of this section, upon consideration of the best interest factors listed in subsection f. of this section.

f. The factors the division and the court shall consider in making a best interest determination, as provided in this section, shall include, but not be limited to:

(1) safety considerations;

(2) the proximity of the resource family home to the child's present school;

(3) the age and grade level of the child as it relates to the other best interest factors listed in this subsection;

(4) the needs of the child, including social adjustment and wellbeing;

(5) the child's preference;

(6) the child's performance, continuity of education, and engagement in the school the child presently attends;

(7) the child's special education programming if the child is classified;

(8) the point of time in the school year;

(9) the child's permanency goal and the likelihood of reunification;

(10) the anticipated duration of the current placement; and

(11) such other factors as provided by regulation of the Commissioner of Children and Families.

g. At the time a determination becomes conclusive or upon any subsequent decision by the court, the child shall either continue to be enrolled in his current school or shall be immediately enrolled in the new school district, and the mandated student record shall be provided to the new school district in accordance with applicable regulations of the State Board of Education.

h. The division shall provide transportation for the child to attend school during the time that a determination is being made or while a court review is pending as to where the child will attend school and for the subsequent five school days. At such time as a determination is made by the division or a decision is rendered by the court, the division shall immediately notify the school district where the child is currently attending school, the school district of residence, and the school district where the resource family home is located, as applicable.

The district of residence shall be responsible for transportation for the child to attend school, within five days of being notified by the division where the child will attend school.

i. Nothing in this section shall be construed to require any public entity to fund students placed in nonpublic schools by their parents or guardians.

j. Notwithstanding the provisions of this section, the division shall not be required to identify the school where the child is or will be enrolled to a parent or legal guardian, if the release of such information would pose a risk to the safety of the child.

4. Notwithstanding any provision of P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the Commissioner of Education shall adopt, immediately upon filing with the Office of Administrative Law, such regulations as the commissioner deems necessary to implement the provisions of this act which regulations shall be effective for a period not to exceed six months and shall, thereafter, be amended, adopted, or readopted by the commissioner in accordance with the requirements of P.L.1968, c.410 (C.52:14B-1 et seq.).

5. The Commissioner of Children and Families may adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to carry out the purposes of this act.

6. This act shall take effect immediately and shall apply to resource family home placements made on or after the effective date.

Approved September 9, 2010.

CHAPTER 70

AN ACT concerning the Highlands region and the expiration date of the special appraisal process for the acquisition of lands for recreation and conservation and farmland preservation purposes, and amending P.L.1999, c.152.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Section 3 of P.L.1999, c.152 (C.13:8C-3) is amended to read as follows:

C.13:8C-3 Definitions relative to open space, farmland, and historic preservation.

3. As used in sections 1 through 42 of this act:

"Acquisition" or "acquire" means the obtaining of a fee simple or lesser interest in land, including but not limited to a development easement, a conservation restriction or easement, or any other restriction or easement permanently restricting development, by purchase, installment purchase agreement, gift, donation, eminent domain by the State or a local government unit, or devise; except that any acquisition of lands by the State for recreation and conservation purposes by eminent domain shall be only as authorized pursuant to section 28 of this act;

"Bonds" means bonds issued by the trust pursuant to this act;

"Commissioner" means the Commissioner of Environmental Protection;

"Committee" means the State Agriculture Development Committee established pursuant to section 4 of P.L.1983, c.31 (C.4:1C-4);

"Constitutionally dedicated moneys" means any moneys made available pursuant to Article VIII, Section II, paragraph 7 of the State Constitution or through the issuance of bonds, notes or other obligations by the trust, as prescribed by Article VIII, Section II, paragraph 7 of the State Constitution and this act, or any moneys from other sources deposited in the trust funds established pursuant to sections 19, 20, and 21 of this act, and appropriated by law, for any of the purposes set forth in Article VIII, Section II, paragraph 7 of the State Constitution or this act;

"Convey" or "conveyance" means to sell, donate, exchange, transfer, or lease for a term of 25 years or more;

"Cost" means the expenses incurred in connection with: all things deemed necessary or useful and convenient for the acquisition or develop-

ment of lands for recreation and conservation purposes, the acquisition of development easements or fee simple titles to farmland, or the preservation of historic properties, as the case may be; the execution of any agreements or franchises deemed by the Department of Environmental Protection, State Agriculture Development Committee, or New Jersey Historic Trust, as the case may be, to be necessary or useful and convenient in connection with any project funded in whole or in part using constitutionally dedicated moneys; the procurement or provision of appraisal, archaeological, architectural, conservation, design, engineering, financial, geological, historic research, hydrological, inspection, legal, planning, relocation, surveying, or other professional advice, estimates, reports, services, or studies; the purchase of title insurance; the undertaking of feasibility studies; the establishment of a reserve fund or funds for working capital, operating, maintenance, or replacement expenses and for the payment or security of principal or interest on bonds, as the Director of the Division of Budget and Accounting in the Department of the Treasury may determine; and reimbursement to any fund of the State of moneys that may have been transferred or advanced therefrom to any fund established by this act, or any moneys that may have been expended therefrom for, or in connection with, this act;

"Department" means the Department of Environmental Protection;

"Development" or "develop" means, except as used in the definitions of "acquisition" and "development easement" in this section, any improvement made to a land or water area designed to expand and enhance its utilization for recreation and conservation purposes, and shall include the construction, renovation, or repair of any such improvement, but shall not mean shore protection or beach nourishment or replenishment activities;

"Development easement" means an interest in land, less than fee simple title thereto, which interest represents the right to develop that land for all nonagricultural purposes and which interest may be transferred under laws authorizing the transfer of development potential;

"Farmland" means land identified as having prime or unique soils as classified by the Natural Resources Conservation Service in the United States Department of Agriculture, having soils of Statewide importance according to criteria adopted by the State Soil Conservation Committee, established pursuant to R.S.4:24-3, or having soils of local importance as identified by local soil conservation districts, and which land qualifies for differential property taxation pursuant to the "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.), and any other land on the farm that is necessary to accommodate farm practices as determined by the State Agriculture Development Committee;

"Farmland preservation," "farmland preservation purposes" or "preservation of farmland" means the permanent preservation of farmland to support agricultural or horticultural production as the first priority use of that land;

"Garden State Farmland Preservation Trust Fund" means the Garden State Farmland Preservation Trust Fund established pursuant to section 20 of this act;

"Garden State Green Acres Preservation Trust Fund" means the Garden State Green Acres Preservation Trust Fund established pursuant to section 19 of this act;

"Garden State Historic Preservation Trust Fund" means the Garden State Historic Preservation Trust Fund established pursuant to section 21 of this act;

"Green Acres bond act" means: P.L.1961, c.46; P.L.1971, c.165; P.L.1974, c.102; P.L.1978, c.118; P.L.1983, c.354; P.L.1987, c.265; P.L.1989, c.183; P.L.1992, c.88; P.L.1995, c.204; and any State general obligation bond act that may be approved after the date of enactment of this act for the purpose of providing funding for the acquisition or development of lands for recreation and conservation purposes or for farmland preservation purposes;

"Historic preservation," "historic preservation purposes," or "preservation of historic properties" means any work relating to the conservation, improvement, interpretation, preservation, protection, rehabilitation, renovation, repair, restoration, or stabilization of any historic property, and shall include any work related to providing access thereto for disabled or handicapped persons;

"Historic property" means any area, building, facility, object, property, site, or structure approved for inclusion, or which meets the criteria for inclusion, in the New Jersey Register of Historic Places pursuant to P.L.1970, c.268 (C.13:1B-15.128 et seq.);

"Indoor recreation" means active recreation that otherwise is or may be pursued outdoors but, for reasons of extending the season or avoiding inclement weather, is or may be pursued indoors within a fully or partially enclosed building or other structure, and includes basketball, ice skating, racquet sports, roller skating, swimming, and similar recreational activities and sports as determined by the Department of Environmental Protection;

"Land" or "lands" means real property, including improvements thereof or thereon, rights-of-way, water, lakes, riparian and other rights, easements, privileges and all other rights or interests of any kind or description in, relating to, or connected with real property;

"Local government unit" means a county, municipality, or other political subdivision of the State, or any agency, authority, or other entity thereof; except, with respect to the acquisition and development of lands for recreation and conservation purposes, "local government unit" means a county, municipality, or other political subdivision of the State, or any agency, authority, or other entity thereof the primary purpose of which is to administer, protect, acquire, develop, or maintain lands for recreation and conservation purposes;

"New Jersey Historic Trust" means the entity established pursuant to section 4 of P.L.1967, c.124 (C.13:1B-15.111);

"Notes" means the notes issued by the trust pursuant to this act;

"Permitted investments" means any of the following securities:

(1) Bonds, debentures, notes or other evidences of indebtedness issued by any agency or instrumentality of the United States to the extent such obligations are guaranteed by the United States or by another such agency the obligations (including guarantees) of which are guaranteed by the United States;

(2) Bonds, debentures, notes or other evidences of indebtedness issued by any corporation chartered by the United States, including, but not limited to, Governmental National Mortgage Association, Federal Land Banks, Federal Home Loan Mortgage Corporation, Federal National Mortgage Association, Federal Home Loan Banks, Federal Intermediate Credit Banks, Banks for Cooperatives, Tennessee Valley Authority, United States Postal Service, Farmers Home Administration, Resolution Funding Corporation, Export-Import Bank, Federal Financing Bank and Student Loan Marketing Association;

(3) Bonds, debentures, notes or commercial paper rated in the highest two rating categories without regard to rating subcategories (derogation) by all nationally recognized investment rating agencies or by a nationally recognized investment rating agency if rated by only one nationally recognized investment rating agency;

(4) Repurchase agreements or investment agreements issued by (i) a commercial bank or trust company or a national banking association, each having a capital stock and surplus of more than $100,000,000, or (ii) an insurance company with the highest rating provided by a nationally recognized insurance company rating agency, or (iii) a broker/dealer, or (iv) a corporation; provided that the credit of such commercial bank or trust company or national banking association or insurance company or broker/dealer or corporation, as the case may be, is rated (or, in the case of a broker/dealer or corporation, whose obligations thereunder are guaranteed by a

commercial bank or trust company or a national banking association or insurance company with the highest rating provided by a nationally recognized insurance company rating agency or corporation whose credit is rated) not lower than the "AA" category without regard to rating subcategories (derogation) of any two nationally recognized investment rating agencies then rating the State; provided that any such agreement shall provide for the investment of funds and shall be collateralized by obligations described in paragraph 1 or paragraph 2 or paragraph 3 above at a level of at least one hundred and two (102) percent in principal amount of those obligations;

"Pinelands area" means the pinelands area as defined pursuant to section 3 of P.L.1979, c.111 (C.13:18A-3);

"Pinelands regional growth area" means a regional growth area established pursuant to the pinelands comprehensive management plan adopted pursuant to P.L.1979, c.111 (C.13:18A-1 et seq.);

"Project" means all things deemed necessary or useful and convenient in connection with the acquisition or development of lands for recreation and conservation purposes, the acquisition of development easements or fee simple titles to farmland, or the preservation of historic properties, as the case may be;

"Qualifying open space referendum county" means any county that has: (1) approved and implemented, and is collecting and expending the revenue from, an annual levy authorized pursuant to P.L.1997, c.24 (C.40:12-15.1 et seq.) for an amount or at a rate equivalent to at least one half of one cent per $100 of assessed value of real property, or for an amount or at a rate established by the county and in effect as of April 1, 1999, whichever is greater; or (2) adopted an alternative means of funding for the same or similar purposes as an annual levy, which the Department of Environmental Protection, in consultation with the committee and the New Jersey Historic Trust, approves to be stable and reasonably equivalent in effect to an annual levy;

"Qualifying open space referendum municipality" means any municipality that has: (1) approved and implemented, and is collecting and expending the revenue from, an annual levy authorized pursuant to P.L.1997, c.24 (C.40:12-15.1 et seq.) for an amount or at a rate equivalent to at least one half of one cent per $100 of assessed value of real property, or for an amount or at a rate established by the municipality and in effect as of April 1, 1999, whichever is greater; or (2) adopted an alternative means of funding for the same or similar purposes as an annual levy, which the Department of Environmental Protection, in consultation with the committee and

the New Jersey Historic Trust, approves to be stable and reasonably equivalent in effect to an annual levy;

"Qualifying tax exempt nonprofit organization" means a nonprofit organization that is exempt from federal taxation pursuant to section 501 (c)(3) of the federal Internal Revenue Code, 26 U.S.C. s.501 (c)(3), and which qualifies for a grant pursuant to section 27, 39, or 41 of this act;

"Recreation and conservation purposes" means the use of lands for beaches, biological or ecological study, boating, camping, fishing, forests, greenways, hunting, natural areas, parks, playgrounds, protecting historic properties, water reserves, watershed protection, wildlife preserves, active sports, or a similar use for either public outdoor recreation or conservation of natural resources, or both; and

"Trust" means the Garden State Preservation Trust established pursuant to section 4 of this act.

2. Section 26 of P.L.1999, c.152 (C.13:8C-26) is amended to read as follows:

C.13:8C-26 Allocation of funds appropriated; conditions.

26. a. Moneys appropriated from the Garden State Green Acres Preservation Trust Fund to the Department of Environmental Protection shall be used by the department to:

(1) Pay the cost of acquisition and development of lands by the State for recreation and conservation purposes;

(2) Provide grants and loans to assist local government units to pay the cost of acquisition and development of lands for recreation and conservation purposes; and

(3) Provide grants to assist qualifying tax exempt nonprofit organizations to pay the cost of acquisition and development of lands for recreation and conservation purposes.

b. The expenditure and allocation of constitutionally dedicated moneys for recreation and conservation purposes shall reflect the geographic diversity of the State to the maximum extent practicable and feasible.

c. (1) Notwithstanding the provisions of section 5 of P.L.1985, c.310 (C.13:18A-34) or this act, or any rule or regulation adopted pursuant thereto, to the contrary, the value of a pinelands development credit, allocated to a parcel pursuant to P.L.1979, c.111 (C.13:18A-1 et seq.) and the pinelands comprehensive management plan adopted pursuant thereto, shall be made utilizing a value to be determined by either appraisal, regional averaging based upon appraisal data, or a formula supported by appraisal data. The

appraisal and appraisal data shall consider as appropriate: land values in the pinelands regional growth areas; land values in counties, municipalities, and other areas reasonably contiguous to, but outside of, the pinelands area; and other relevant factors as may be necessary to maintain the environmental, ecological, and agricultural qualities of the pinelands area.

(2) No pinelands development credit allocated to a parcel of land pursuant to P.L.1979, c.111 (C.13:18A-1 et seq.) and the pinelands comprehensive management plan adopted pursuant thereto that is acquired or obtained in connection with the acquisition of the parcel for recreation and conservation purposes by the State, a local government unit, or a qualifying tax exempt nonprofit organization using constitutionally dedicated moneys in whole or in part may be conveyed in any manner. All such pinelands development credits shall be retired permanently.

d. (Deleted by amendment, P.L.2010, c.70)

e. Moneys appropriated from the fund may be used to match grants, contributions, donations, or reimbursements from federal aid programs or from other public or private sources established for the same or similar purposes as the fund.

f. Moneys appropriated from the fund shall not be used by local government units or qualifying tax exempt nonprofit organizations to acquire lands that are already permanently preserved for recreation and conservation purposes, as determined by the department.

g. Whenever lands are donated to the State by a public utility, as defined pursuant to Title 48 of the Revised Statutes, for recreation and conservation purposes, the commissioner may make and keep the lands accessible to the public, unless the commissioner determines that public accessibility would be detrimental to the lands or any natural resources associated therewith.

h. Whenever the State acquires land for recreation and conservation purposes, the agency in the Department of Environmental Protection responsible for administering the land shall, within six months after the date of acquisition, inspect the land for the presence of any buildings or structures thereon which are or may be historic properties and, within 60 days after completion of the inspection, provide to the New Jersey Historic Preservation Office in the department (1) a written notice of its findings, and (2) for any buildings or structures which are or may be historic properties discovered on the land, a request for determination of potential eligibility for inclusion of the historic building or structure in the New Jersey Register of Historic Places. Whenever such a building or structure is discovered, a copy of the written notice provided to the New Jersey Historic Preservation

Office shall also be sent to the New Jersey Historic Trust and to the county historical commission or advisory committee, the county historical society, the local historic preservation commission or advisory committee, and the local historical society if any of those entities exist in the county or municipality wherein the land is located.

i. (Deleted by amendment, P.L.2010, c.70)

j. (1) Commencing on the date of enactment of P.L.2004, c.120 (C.13:20-1 et al.) and through June 30, 2014 for lands located in the Highlands Region as defined pursuant to section 3 of P.L.2004, c.120 (C.13:20-3), when the department, a local government unit, or a qualifying tax exempt nonprofit organization seeks to acquire lands for recreation and conservation purposes using constitutionally dedicated moneys in whole or in part or Green Acres bond act moneys in whole or in part, it shall conduct or cause to be conducted an appraisal or appraisals of the value of the lands that shall be made using (a) the land use zoning of the lands, and any State environmental laws or Department of Environmental Protection rules and regulations that may affect the value of the lands, subject to the appraisal and in effect at the time of proposed acquisition, and (b) the land use zoning of the lands, and any State environmental laws or Department of Environmental Protection rules and regulations that may affect the value of the lands, subject to the appraisal and in effect on January 1, 2004. The higher of those two values shall be utilized by the department, a local government unit, or a qualifying tax exempt nonprofit organization as the basis for negotiation with the landowner with respect to the acquisition price for the lands. The landowner shall be provided with both values determined pursuant to this paragraph.

A landowner may waive any of the requirements of this paragraph and may agree to sell the lands for less than the values determined pursuant to this paragraph.

The provisions of this paragraph shall be applicable only to lands the owner of which at the time of proposed acquisition is the same person who owned the lands on the date of enactment of P.L.2004, c.120 (C.13:20-1 et al.) and who has owned the lands continuously since that enactment date, or is an immediate family member of that person.

(2) (Deleted by amendment, P.L.2010, c.70)

(3) The requirements of this subsection shall be in addition to any other requirements of law, rule, or regulation not inconsistent therewith.

(4) This subsection shall not:

(a) apply in the case of lands to be acquired with federal moneys in whole or in part;

(b) (Deleted by amendment, P.L.2010, c.70); or

(c) alter any requirements to disclose information to a landowner pursuant to the "Eminent Domain Act of 1971," P.L.1971, c.361 (C.20:3-1 et seq.).

(5) For the purposes of this subsection, "immediate family member" means a spouse, child, parent, sibling, aunt, uncle, niece, nephew, first cousin, grandparent, grandchild, father-in-law, mother-in-law, son-in-law, daughter-in-law, stepparent, stepchild, stepbrother, stepsister, half brother, or half sister, whether the individual is related by blood, marriage, or adoption.

k. The department shall adopt guidelines for the evaluation and priority ranking process which shall be used in making decisions concerning the acquisition of lands by the State for recreation and conservation purposes using moneys from the Garden State Green Acres Preservation Trust Fund and from any other source. The guidelines shall be designed to provide, to the maximum extent practicable and feasible, that such moneys are spent equitably among the geographic areas of the State. The guidelines, and any subsequent revisions thereto, shall be published in the New Jersey Register. The adoption of the guidelines or of the revisions thereto, shall not be subject to the requirements of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

l. In making decisions concerning the acquisition of lands by the State for recreation and conservation purposes using moneys from the Garden State Green Acres Preservation Trust Fund, in the evaluation and priority ranking process the department shall accord three times the weight to acquisitions of lands that would protect water resources, and two times the weight to acquisitions of lands that would protect flood-prone areas, as those criteria are compared to the other criteria in the priority ranking process.

m. The department, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt rules and regulations that establish standards and requirements regulating any activity on lands acquired by the State for recreation and conservation purposes using constitutionally dedicated moneys to assure that the activity on those lands does not diminish the protection of surface water or groundwater resources.

Any rules and regulations adopted pursuant to this subsection shall not apply to activities on lands acquired prior to the adoption of the rules and regulations.

n. (1) The department, within three months after the date of the first meeting of the Highlands Water Protection and Planning Council established pursuant to section 4 of P.L.2004, c.120 (C.13:20-4), shall consult with and solicit recommendations from the council concerning land preser-

vation strategies and acquisition plans in the Highlands Region as defined in section 3 of P.L.2004, c.120 (C.13:20-3).

The council's recommendations shall also address strategies and plans concerning establishment by the department of a methodology for prioritizing the acquisition of land in the Highlands preservation area, as defined in section 3 of P.L.2004, c.120 (C.13:20-3), for recreation and conservation purposes using moneys from the Garden State Green Acres Preservation Trust Fund, especially with respect to (a) any land that has declined substantially in value due to the implementation of the "Highlands Water Protection and Planning Act," P.L.2004, c.120 (C.13:20-1 et al.), and (b) any major Highlands development, as defined in section 3 of P.L.2004, c.120 (C.13:20-3), that would have qualified for an exemption pursuant to paragraph (3) of subsection a. of section 30 of P.L.2004, c.120 (C.13:20-28) but for the lack of a necessary State permit as specified in subparagraph (b) or (c), as appropriate, of paragraph (3) of subsection a. of section 30 of P.L.2004, c.120 (C.13:20-28), and for which an application for such a permit had been submitted to the Department of Environmental Protection and deemed by the department to be complete for review on or before March 29, 2004. The recommendations may also include a listing of specific parcels in the Highlands preservation area that the council is aware of that meet the criteria of subparagraph (a) or (b) of this paragraph and for that reason should be considered by the department as a priority for acquisition, but any such list shall remain confidential notwithstanding any provision of P.L.1963, c.73 (C.47:1A-1 et seq.) or any other law to the contrary.

(2) In making decisions concerning applications for funding submitted by municipalities in the Highlands planning area, as defined in section 3 of P.L.2004, c.120 (C.13:20-3), to acquire or develop lands for recreation and conservation purposes using moneys from the Garden State Green Acres Preservation Trust Fund, in the evaluation and priority ranking process the department shall accord a higher weight to any application submitted by a municipality in the Highlands planning area that has amended its development regulations in accordance with section 13 of P.L.2004, c.120 (C.13:20-13) to establish one or more receiving zones for the transfer of development potential from the Highlands preservation area, as defined in section 3 of P.L.2004, c.120 (C.13:20-3), than that which is accorded to comparable applications submitted by other municipalities in the Highlands planning area that have not made such amendments to their development regulations.

o. Notwithstanding any provision of P.L.1999, c.152 (C.13:8C-1 et seq.) to the contrary, for State fiscal years 2005 through 2009, the sum

spent by the department in each of those fiscal years for the acquisition of lands by the State for recreation and conservation purposes using moneys from the Garden State Green Acres Preservation Trust Fund in each county of the State shall be not less, and may be greater if additional sums become available, than the average annual sum spent by the department therefor in each such county, respectively, for State fiscal years 2002 through 2004, provided there is sufficient and appropriate lands within the county to be so acquired by the State for such purposes.

3. Section 38 of P.L.1999, c.152 (C.13:8C-38) is amended to read as follows:

C.13:8C-38 Acquisitions, grants with respect to farmland preservation.

38. a. All acquisitions or grants made pursuant to section 37 of P.L.1999, c.152 (C.13:8C-37) shall be made with respect to farmland devoted to farmland preservation under programs established by law.

b. The expenditure and allocation of constitutionally dedicated moneys for farmland preservation purposes shall reflect the geographic diversity of the State to the maximum extent practicable and feasible.

c. The committee shall implement the provisions of section 37 of P.L.1999, c.152 (C.13:8C-37) in accordance with the procedures and criteria established pursuant to the "Agriculture Retention and Development Act," P.L.1983, c.32 (C.4:1C-11 et seq.) except as provided otherwise by this act.

d. The committee shall adopt the same or a substantially similar method for determining, for the purposes of this act, the committee's share of the cost of a development easement on farmland to be acquired by a local government as that which is being used by the committee on the date of enactment of this act for prior farmland preservation funding programs.

e. Notwithstanding the provisions of section 24 of P.L.1983, c.32 (C.4:1C-31) or this act, or any rule or regulation adopted pursuant thereto, to the contrary, whenever the value of a development easement on farmland to be acquired using constitutionally dedicated moneys in whole or in part is determined based upon the value of any pinelands development credits allocated to the parcel pursuant to P.L.1979, c.111 (C.13:18A-1 et seq.) and the pinelands comprehensive management plan adopted pursuant thereto, the committee shall determine the value of the development easement by:

(1) conducting a sufficient number of fair market value appraisals as it deems appropriate to determine the value for farmland preservation purposes of the pinelands development credits;

(2) considering development easement values in counties, municipalities, and other areas (a) reasonably contiguous to, but outside of, the pinelands area, which in the sole opinion of the committee constitute reasonable development easement values in the pinelands area for the purposes of this subsection, and (b) in the pinelands area where pinelands development credits are or may be utilized, which in the sole opinion of the committee constitute reasonable development easement values in the pinelands area for the purposes of this subsection;

(3) considering land values in the pinelands regional growth areas;

(4) considering the importance of preserving agricultural lands in the pinelands area; and

(5) considering such other relevant factors as may be necessary to increase participation in the farmland preservation program by owners of agricultural lands located in the pinelands area.

f. No pinelands development credit that is acquired or obtained in connection with the acquisition of a development easement on farmland or fee simple title to farmland by the State, a local government unit, or a qualifying tax exempt nonprofit organization using constitutionally dedicated moneys in whole or in part may be conveyed in any manner. All such pinelands development credits shall be retired permanently.

g. (Deleted by amendment, P.L.2010, c.70)

h. Any farmland for which a development easement or fee simple title has been acquired pursuant to section 37 of P.L.1999, c.152 (C.13:8C-37) shall be entitled to the benefits conferred by the "Right to Farm Act," P.L.1983, c.31 (C.4:1C-1 et al.) and the "Agriculture Retention and Development Act," P.L.1983, c.32 (C.4:1C-11 et al.).

i. (Deleted by amendment, P.L.2010, c.70)

j. (1) Commencing on the date of enactment of P.L.2004, c.120 (C.13:20-1 et al.) and through June 30, 2014 for lands located in the Highlands Region as defined pursuant to section 3 of P.L.2004, c.120 (C.13:20-3), when the committee, a local government unit, or a qualifying tax exempt nonprofit organization seeks to acquire a development easement on farmland or the fee simple title to farmland for farmland preservation purposes using constitutionally dedicated moneys in whole or in part or Green Acres bond act moneys in whole or in part, it shall conduct or cause to be conducted an appraisal or appraisals of the value of the lands that shall be made using (a) the land use zoning of the lands, and any State environmental laws or Department of Environmental Protection rules and regulations that may affect the value of the lands, subject to the appraisal and in effect at the time of proposed acquisition, and (b) the land use zoning of the lands, and any

State environmental laws or Department of Environmental Protection rules and regulations that may affect the value of the lands, subject to the appraisal and in effect on January 1, 2004. The higher of those two values shall be utilized by the committee, a local government unit, or a qualifying tax exempt nonprofit organization as the basis for negotiation with the landowner with respect to the acquisition price for the lands. The landowner shall be provided with both values determined pursuant to this paragraph.

A landowner may waive any of the requirements of this paragraph and may agree to sell the lands for less than the values determined pursuant to this paragraph.

The provisions of this paragraph shall be applicable only to lands the owner of which at the time of proposed acquisition is the same person who owned the lands on the date of enactment of P.L.2004, c.120 (C.13:20-1 et al.) and who has owned the lands continuously since that enactment date, is an immediate family member of that person, or is a farmer as defined by the committee.

(2) (Deleted by amendment, P.L.2010, c.70)

(3) The requirements of this subsection shall be in addition to any other requirements of law, rule, or regulation not inconsistent therewith.

(4) This subsection shall not:

(a) apply in the case of lands to be acquired with federal moneys in whole or in part;

(b) (Deleted by amendment, P.L.2010, c.70); or

(c) alter any requirements to disclose information to a landowner pursuant to the "Eminent Domain Act of 1971," P.L.1971, c.361 (C.20:3-1 et seq.).

(5) For the purposes of this subsection, "immediate family member" means a spouse, child, parent, sibling, aunt, uncle, niece, nephew, first cousin, grandparent, grandchild, father-in-law, mother-in-law, son-in-law, daughter-in-law, stepparent, stepchild, stepbrother, stepsister, half brother, or half sister, whether the individual is related by blood, marriage, or adoption.

k. The committee and the Department of Environmental Protection, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall jointly adopt rules and regulations that establish standards and requirements regulating any improvement on lands acquired by the State for farmland preservation purposes using constitutionally dedicated moneys to assure that any improvement does not diminish the protection of surface water or groundwater resources.

Any rules and regulations adopted pursuant to this subsection shall not apply to improvements on lands acquired prior to the adoption of the rules and regulations.

l. (1) The committee, within three months after the date of the first meeting of the Highlands Water Protection and Planning Council established pursuant to section 4 of P.L.2004, c.120 (C.13:20-4), shall consult with and solicit recommendations from the council concerning farmland preservation strategies and acquisition plans in the Highlands Region as defined in section 3 of P.L.2004, c.120 (C.13:20-3).

The council's recommendations shall also address strategies and plans concerning establishment by the committee of a methodology for prioritizing the acquisition of development easements and fee simple titles to farmland in the Highlands preservation area, as defined in section 3 of P.L.2004, c.120 (C.13:20-3), for farmland preservation purposes using moneys from the Garden State Farmland Preservation Trust Fund, especially with respect to farmland that has declined substantially in value due to the implementation of the "Highlands Water Protection and Planning Act," P.L.2004, c.120 (C.13:20-1 et al.). The recommendations may also include a listing of specific parcels in the Highlands preservation area that the council is aware of that have experienced a substantial decline in value and for that reason should be considered by the committee as a priority for acquisition, but any such list shall remain confidential notwithstanding any provision of P.L.1963, c.73 (C.47:1A-1 et seq.) or any other law to the contrary.

(2) In prioritizing applications for funding submitted by local government units in the Highlands planning area, as defined in section 3 of P.L.2004, c.120 (C.13:20-3), to acquire development easements on farmland in the Highlands planning area using moneys from the Garden State Farmland Preservation Trust Fund, the committee shall accord a higher weight to any application submitted by a local government unit to preserve farmland in a municipality in the Highlands planning area that has amended its development regulations in accordance with section 13 of P.L.2004, c.120 (C.13:20-13) to establish one or more receiving zones for the transfer of development potential from the Highlands preservation area, as defined in section 3 of P.L.2004, c.120 (C.13:20-3), than that which is accorded to comparable applications submitted by other local government units to preserve farmland in municipalities in the Highlands planning area that have not made such amendments to their development regulations.

m. Notwithstanding any provision of P.L.1999, c.152 (C.13:8C-1 et seq.) to the contrary, for State fiscal years 2005 through 2009, the sum spent by the committee in each of those fiscal years for the acquisition by the committee of development easements and fee simple titles to farmland for farmland preservation purposes using moneys from the Garden State Farmland Preservation Trust Fund in each county of the State shall be not

less, and may be greater if additional sums become available, than the average annual sum spent by the department therefor in each such county, respectively, for State fiscal years 2002 through 2004, provided there is sufficient and appropriate farmland within the county to be so acquired by the committee for such purposes.

4. This act shall take effect immediately.

Approved September 9, 2010.

CHAPTER 71

AN ACT concerning State funding for certain children enrolled in nonpublic schools and amending P.L.1977, c.193.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Section 14 of P.L.1977, c.193 (C.18A:46-19.8) is amended to read as follows:

C.18A:46-19.8 Estimated cost of services; inclusion in budget; State aid.

14. a. On November 5 of each year, each board of education shall report the number of nonpublic school children who attended a nonpublic school located within the district who were identified as eligible to receive examination, classification, and speech correction services pursuant to this act during the previous school year. The number of these pupils requiring an initial evaluation or reevaluation for examination and classification shall be multiplied by $990.73. The number of these pupils requiring an annual review for examination and classification shall be multiplied by $297.06. The number requiring speech correction shall be multiplied by $786.70. These products shall be added to determine the estimated cost for providing examination, classification, and speech corrections services to nonpublic school children during the next school year. Each board of education shall report the number of nonpublic school children who attended a nonpublic school located within the district, who were identified as eligible for supplementary instruction services during the preceding school year. The number of these pupils shall be multiplied by $752.41. This product shall

be added to the estimated cost for providing examination, classification and speech correction services.

In preparing its annual budget, each board of education shall include as an expenditure the estimated cost of providing services to nonpublic school children pursuant to P.L.1977, c.193 (C.18A:46-19.1 et al.).

In preparing its annual budget, each board of education shall include as a revenue State aid in an amount equal to the estimated cost of providing services to nonpublic school children pursuant to P.L.1977, c.193 (C.18A:46-19.1 et al.).

During each school year, each district shall receive an amount of State aid equal to 10% of the estimated cost on the first day in September and on the first day of each month during the remainder of the school year. If a board of education requires funds prior to September, the board shall file a written request with the Commissioner of Education stating the need for the funds. The commissioner shall review each request and forward those for which need has been demonstrated to the appropriate officials for payment. In the event the expenditures incurred by any district are less than the amount of State aid received, the district shall refund the unexpended State aid after completion of the school year. The refunds shall be paid no later than December 1. In any year, a district may submit a request for additional aid pursuant to P.L.1977, c.193 (C.18A:46-19.1 et al.). If the request is approved and funds are available from refunds of the prior year, payment shall be made in the current school year.

b. For the purposes of the report provided pursuant to subsection a. of this section, a board of education shall include a pupil enrolled in a nonpublic school located within the district who does not reside in the State in the number of pupils requiring an initial evaluation or reevaluation for examination and classification or requiring an annual review for examination and classification.

Notwithstanding the provisions of N.J.S.18A:46-6, N.J.S.18A:46-8, or any other section of law to the contrary, a school district may use State aid received pursuant to the provisions of P.L.1977, c.193 (C.18A:46-19.1 et al.) for the initial evaluation or reevaluation for examination and classification or annual review for examination and classification of a nonpublic school pupil who is not a resident of the State.

2. This act shall take effect immediately.

Approved September 9, 2010.

CHAPTER 72

AN ACT concerning the taking of menhaden, amending R.S.23:3-51 and supplementing Title 23 of the Revised Statutes.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. R.S.23:3-51 is amended to read as follows:

License to take menhaden, prohibited takings.

23:3-51. a. A person intending to take menhaden with purse or shirred nets in any waters in the jurisdiction of this State, including the waters of the Atlantic ocean, within three nautical miles of the coast line of this State, shall apply to the commissioner for a license therefor. The commissioner, upon receipt of the application and payment of the fee required pursuant to R.S.23:3-52, may, at the commissioner's discretion and as prescribed pursuant to sections 2 and 3 of P.L.2010, c.72, issue to the applicant a license to take menhaden, except as prohibited in subsection b. of this section. The license shall be void after December 31 next succeeding its issuance.

b. Notwithstanding the provisions of subsection a. of this section or any other law, or any rule or regulation adopted pursuant thereto, to the contrary, the commissioner shall not issue a license for the taking of menhaden, and no person may take menhaden, in State coastal waters, including Delaware, Great, Raritan, and Sandy Hook bays, for the purpose of reduction, including conversion to fish meal, oil, and other components.

c. This act shall not affect the taking of menhaden in State coastal waters for the use as bait for commercial or recreational purposes.

2. a. The commissioner may only issue a license for a person to take menhaden with purse or shirred nets to a person that possessed a valid license for at least one of the years between 2002 and 2009, inclusive. Commencing in 2011 and thereafter, the commissioner may only issue a license pursuant to this section to a person who possessed a valid license for at least one of the years between 2002 and 2009 and a valid license in the preceding year.

b. An owner of a vessel qualifying for a license pursuant to subsection a. of this subsection may replace the vessel provided that the new vessel is not greater than 10 percent larger in vessel length, gross registered tonnage or net tonnage, and not more than 20 percent greater in horsepower, than

the vessel that qualified for a license in 2010, provided however, that in no case shall a vessel used to take menhaden with purse or shirred nets be greater than 90 feet in length, and provided that the original vessel is retired from the menhaden fishery.

C.23:3-51.1 Rules, regulations for taking of menhaden.

3. The commissioner shall regulate the taking of menhaden, including the issuance and transfer of licenses for the taking of menhaden as prescribed pursuant to section 2 of P.L.2010, c.72, by rule or regulation adopted pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

4. This act shall take effect immediately, and section 2 shall expire upon the adoption of the rules and regulations required pursuant to section 3 of this act.

Approved September 9, 2010.

CHAPTER 73

AN ACT concerning tuition for summer school and supplementing chapter 11 of Title 18A of the New Jersey Statutes.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

C.18A:11-14 Findings, declarations relative to summer school tuition.

1. The Legislature finds and declares that:

a. School districts around the State are feeling the effects of the tough economic climate;

b. Reductions in State aid are requiring boards of education to make drastic cuts in programs and services offered in their school districts;

c. Many school districts have been forced, for example, to eliminate summer school programs, resulting in a decrease Statewide in the availability of these types of programs; and

d. Allowing school districts to charge tuition for those students able to pay for courses provided during the summer session would help school districts ensure that these valuable programs remain available to the students who need them.

New Jersey State Library

C.18A:11-15 Tuition charge for certain summer courses; terms defined.

2. a. Notwithstanding any provision of law to the contrary, a board of education may charge tuition for a remedial or advanced course provided during a summer school session to a student who resides in the district in accordance with the following provisions:

(1) for a student from a household with a household income that exceeds the most recent federal poverty guidelines multiplied by 1.85, the district may charge full tuition;

(2) for a student from a household with household income that exceeds the most recent federal poverty guidelines multiplied by 1.30, but is at or below the most recent federal poverty guidelines multiplied by 1.85, the district may charge 75% of the full tuition charged by the board of education;

(3) for a student from a household with a household income that exceeds the most recent federal poverty guidelines, but is at or below the most recent federal poverty guidelines multiplied by 1.30, the district may charge 50% of the full tuition charged by the board of education; and

(4) for a student from a household with a household income at or below the most recent federal poverty guidelines, the district may not charge any tuition.

b. A board of education may charge full tuition to a student who resides in the district for an enrichment course provided during a summer school session, which course carries no credit and is determined by the executive county superintendent of schools to have no direct relationship to the curriculum.

c. A board of education may charge tuition for a remedial, advanced, or enrichment course provided during a summer school session to a student who does not reside in the school district, at an amount to be determined by the board.

d. As used in this section:

"Advanced course" means a course or subject not previously taken in an approved school district program for which additional credits or advanced placement may be awarded upon successful completion of the course.

"Enrichment course" means a course or subject of a vocational nature for which no credits are to be awarded.

"Household income" means income as defined in 7 CFR ss.245.2 and 245.6 or any subsequent superseding federal law or regulation.

"Remedial course" means a course or subject that is a review of a course or subject previously taken for which credits or placements may be awarded upon successful completion of the course.

3. This act shall take effect immediately.

Approved September 9, 2010.

CHAPTER 74

AN ACT concerning the Medicaid program and supplementing P.L.1968, c.413 (C.30:4D-1 et seq.).

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

C.30:4D-17.33 Medicaid medical home demonstration project; terms defined.

1. a. The Division of Medical Assistance and Health Services in the Department of Human Services, subject to federal approval and the availability of federal financial participation under Title XIX of the Social Security Act, shall establish a three-year Medicaid medical home demonstration project as provided in this act. The demonstration project shall be developed in consultation and implemented with the managed care organizations that contract with the Medicaid program to provide health care services to Medicaid recipients or with other appropriate vendors that contract with the Medicaid program to provide health care services to general public assistance recipients.

b. The Medicaid program shall:

(1) Consider payment methodologies that support care-coordination through multi-disciplinary teams, including payment for care of patients with chronic diseases and the elderly, and that encourage services such as: (a) patient or family education for patients with chronic diseases; (b) home-based services; (c) telephonic communication; (d) group care; (e) oral health examinations, when applicable; and (f) culturally and linguistically appropriate care. In addition, the payment system shall be structured to reward quality and improved patient outcomes;

(2) Develop a system to support primary care providers in developing an organizational structure necessary to provide a medical home; and

(3) Identify primary care providers for participation in the demonstration project that provide care to their patients using a medical home model, which at a minimum shall include primary care providers utilizing a multi-disciplinary team that provides patient-centered care coordination through the use of health information technology and chronic disease registries

across the patient's life-span and across all domains of the health care system and the patient's community.

c. Nothing in this act shall be construed to limit the choice of a Medicaid or general public assistance recipient who is participating in the medical home demonstration project to directly access a qualified health care provider for family planning services who is not participating in the demonstration project.

d. Subject to the availability of federal matching funds, the Division of Medical Assistance and Health Services shall begin implementing the demonstration project no later than January 1, 2011.

e. As used in this act:

"General public assistance" means the Work First New Jersey General Public Assistance program established pursuant to P.L.1947, c.156 (C.44:8-107 et seq.);

"Medicaid" means the Medicaid program established pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.); and

"Primary care provider" includes, but is not limited to, a primary care professional medical practice, a federally qualified or community health center, and a primary care outpatient clinic operated by a general hospital.

C.30:4D-17.34 Annual evaluation.

2. The Director of the Division of Medical Assistance and Health Services shall evaluate the demonstration project annually to assess: whether cost savings are achieved through implementation of the medical home project; the rates of health screening; and the outcomes and hospitalization rates for persons with chronic illnesses, and the hospitalization and readmission rates for the frail elderly.

C.30:4D-17.35 Application for plan amendments, waivers.

3. The Commissioner of Human Services shall apply for such State plan amendments or waivers as may be necessary to implement the provisions of this act and to secure federal financial participation for State Medicaid expenditures under the federal Medicaid program.

C.30:4D-17.36 Annual report.

4. The Commissioner of Human Services shall report annually to the Governor, and to the Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), on the findings and recommendations of the demonstration project.

C.30:4D-17.37 Rules, regulations.

5. The Commissioner of Human Services shall, in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), adopt such rules and regulations as the commissioner deems necessary to carry out the provisions of this act.

6. This act shall take effect on the 180th day after enactment and shall expire three years after the effective date, but the Commissioner of Human Services may take such anticipatory administrative action in advance thereof as shall be necessary for the implementation of this act.

Approved September 10, 2010.

CHAPTER 75

AN ACT concerning certain copy fees for public documents and amending various parts of the statutory law.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Section 11 of P.L.1987, c.435 (C.22A:4-1a) is amended to read as follows:

C.22A:4-1a Fees for miscellaneous documents.

11. For services herein enumerated the State Treasurer shall collect the following fees:

a. For filing any original business certificate for which no other fee is fixed by statute or regulation, $125.

For filing any change or amendment to a previously filed document for which no other fee is fixed by statute or regulation, $75.

For issuing any certificate or filing any other document for which no other fee is fixed by statute or regulation, $25.00, except that the provisions of this subsection shall not apply to:

(1) certificates of appointments for gubernatorial appointees;

(2) documents filed by public bodies under the "Senator Byron M. Baer Open Public Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.);

(3) financial disclosures filed by State officials;

(4) oaths of office;

(5) resignation of office holders;

(6) documents filed by other State government entities indexed in the department's miscellaneous file.

b. For certification or exemplification of any document on file, $25.00.

c. For certification or exemplification of any signature on file, including the issuance of a certificate for proving a document outside the United States, also known as an apostille, $25.00; except that in cases of adoption of a child, the fee for an apostille shall be $5.00.

d. For filing a certified copy of an order of change of name, $50.00.

e. For a paper copy of any document on file, up to $0.10 per letter size page or smaller and up to $0.15 per legal size page or larger. If a roll of microfilm images is requested, the State Treasurer shall collect a fee of $1.00 for each image on the microfilm roll. If a microfiche copy of a microfiche is requested, $3.00.

f. For filing a proof of publication, $10.00.

2. R.S.39:4-131 is amended to read as follows:

Accident reports; availability.

39:4-131. The commission shall prepare and supply to police departments and other suitable agencies, forms for accident reports calling for sufficiently detailed information with reference to a motor vehicle accident, including the cause, the conditions then existing, the persons and vehicles involved, the compliance with P.L.1984, c.179 (C.39:3-76.2e et seq.) by the operators and passengers of the vehicles involved in the accident, whether the operator of the vehicle was using a cellular telephone when the accident occurred, and such other information as the chief administrator may require.

Every law enforcement officer who investigates a vehicle accident of which report must be made as required in this Title, or who otherwise prepares a written report as a result of an accident or thereafter by interviewing the participants or witnesses, shall forward a written report of such accident to the commission, on forms furnished by it, within five days after his investigation of the accident.

Such written reports required to be forwarded by law enforcement officers and the information contained therein shall not be privileged or held confidential. Every citizen of this State shall have the right, during regular business hours and under supervision, to inspect and copy such reports and shall also have the right in person to purchase copies of the reports at the same fee established by section 6 of P.L.2001, c.404 (C.47:1A-5). If copies of reports are requested other than in person, an additional fee of up to

$5.00 may be added to cover the administrative costs of the report. Upon request, a police department shall send an accident report to a person through the mail or via fax as defined in section 2 of P.L.1976, c.23 (C.19:59-2). The police department may require the person requesting the report to provide a completed request form and the appropriate fee prior to faxing or mailing the report. The police department shall provide the person requesting the report with the option of submitting the form and providing the appropriate fee either in person, through the mail, or via fax as defined in section 2 of P.L.1976, c.23 (C.19:59-2).

The provisions of any other law or regulation to the contrary notwithstanding, reports obtained pursuant to this act shall not be subject to confidentiality requirements except as provided by section 28 of P.L.1960, c.52 (C.2A:84A-28).

When a motor vehicle accident results in the death or incapacitation of the driver or any passenger, the law enforcement officer responsible for notifying the next of kin that their relative is deceased or incapacitated, also shall inform the relative, in writing, how to obtain a copy of the accident report required by this section and the name, address, and telephone number of the person storing the motor vehicle pursuant to section 1 of P.L.1964, c.81 (C.39:10A-1).

3. Section 65 of P.L.1993, c.210 (C.42:2B-65) is amended to read as follows:

C.42:2B-65 Fees.

65. a. No document required to be filed under this act shall be effective until the applicable fee required by this section is paid. The following fees shall be paid to and collected by the State Treasurer for the use of the State:

(1) Upon the receipt for filing of a certificate of registration of alternate name or a certificate of renewal pursuant to section 4 of this act, a fee in the amount of $50.

(2) Upon the receipt for filing of an application for reservation of name, an application for renewal of reservation or a notice of transfer or cancellation of reservation pursuant to section 5 of this act, a fee in the amount of $50.

(3) Upon the receipt for filing of a certificate under subsection b. of section 6 of this act, a fee in the amount of $25, upon the receipt for filing of a certificate under subsection b. of section 7 of this act, a fee in the amount of $25 and a further fee of $10 for each limited liability company affected by such certificate.

(4) Upon the receipt for filing of a notice of resignation and affidavit pursuant to subsection c. of section 7 of this act, a fee in the amount of $25 and upon the receipt for filing of a certificate of change pursuant to subsection c. of section 7 of this act, a fee in the amount of $25.

(5) Upon the receipt for filing of a certificate of formation under section 11 of this act a fee in the amount of $125; and upon receipt for filing, a certificate of correction under section 12 of this act, a certificate of amendment under section 13 of this act, a certificate of cancellation under section 14 of this act, a certificate of merger or consolidation under section 20 of this act or a restated certificate of formation under section 19 of this act, a fee in the amount of $100.

(6) Upon filing of an annual report, a fee in the amount of $50.00.

(7) Upon requesting a reinstatement of a certificate of a limited liability company, a late filing fee of $200.00 and a reinstatement filing fee of $75.00.

(8) For certifying copies of any paper on file as provided for by this act, a fee in the amount of $25 for each copy certified.

(9) The State Treasurer may issue photocopies of instruments on file as well as other copies, and for all of those copies, whether certified or not, a fee in the amount of up to $0.10 per letter size page or smaller and up to $0.15 per legal size page or larger thereafter shall be paid.

(10) Upon the receipt for filing of an application for registration as a foreign limited liability company under section 53 of this act or a certificate of cancellation under section 56 of this act, a fee in the amount of $125.

(11) For preclearance of any document for filing, a fee in the amount of $50.

(12) For preparing and providing a written report of a record search, a fee in the amount of $50.

(13) For issuing any certificate of the State Treasurer, including but not limited to a certificate of good standing, other than a certification of a copy under paragraph (8) of this subsection, a fee in the amount of $50, except that for issuing any certificate of the State Treasurer that recites all of a limited liability company's filings with the State Treasurer, a fee of $100 shall be paid for each such certificate.

(14) For receiving and filing and/or indexing any certificate, affidavit, agreement or any other paper provided for by this act, for which no different fee is specifically prescribed, a fee in the amount of $75.

(15) The State Treasurer may in the Treasurer's discretion charge a fee of $50 for each check received for payment of any fee that is returned due to insufficient funds or the result of a stop payment order.

b. In addition to those fees charged under subsection a. of this section, there shall be collected by and paid to the State Treasurer the following:

(1) for all services described in subsection a. of this section that are requested to be completed within the same day as the day of the request, an additional sum of up to $50; and

(2) for all services described in subsection a. of this section that are requested to be completed within a 24-hour period from the time of the request, an additional sum of up to $25.

The State Treasurer shall establish (and may from time to time amend) a schedule of specific fees payable pursuant to this subsection.

c. The State Treasurer may in his discretion permit the extension of credit for the fees required by this section upon such terms as he shall deem to be appropriate.

4. Section 4 of P.L.1997, c.412 (C.46:16-18) is amended to read as follows:

C.46:16-18 Endorsement, fee.

4. a. If a notice of federal lien, a refiling of a notice of federal lien, or a notice of revocation of any certificate is presented to the county recording officer, he shall endorse thereon his identification and the date and time of receipt and forthwith file it alphabetically or enter it in an alphabetical index showing the name and address of the person named in the notice, the date and time of receipt, the title and address of the official or entity certifying the lien, and the total amount appearing on the notice of lien.

b. If a refiled notice of federal lien referred to in subsection a. of this section or any certificate of release, nonattachment, discharge or subordination is presented for filing to the county recording officer, he shall permanently attach the refiled notice of the certificate to the original notice of lien and enter the refiled notice or the certificate with the date of filing in any alphabetical lien index on the line where the original notice of lien is entered.

c. All notices received by a filing officer pursuant to this section and the index of the notices shall be held for public inspection by the filing officer. Upon request, the filing officer shall furnish a copy of any notice of federal lien, or notice or certificate affecting a federal lien, for a fee of up to $0.10 per letter size page or smaller, and up to $0.15 per legal size page or larger.

5. Section 6 of P.L.2001, c.404 (C.47:1A-5) is amended to read as follows:

C.47:1A-5 Times during which records may be inspected, examined, copied; access; copy fees.

6. a. The custodian of a government record shall permit the record to be inspected, examined, and copied by any person during regular business hours; or in the case of a municipality having a population of 5,000 or fewer according to the most recent federal decennial census, a board of education having a total district enrollment of 500 or fewer, or a public authority having less than $10 million in assets, during not less than six regular business hours over not less than three business days per week or the entity's regularly-scheduled business hours, whichever is less; unless a government record is exempt from public access by: P.L.1963, c.73 (C.47:1A-1 et seq.) as amended and supplemented; any other statute; resolution of either or both houses of the Legislature; regulation promulgated under the authority of any statute or Executive Order of the Governor; Executive Order of the Governor; Rules of Court; any federal law; federal regulation; or federal order. Prior to allowing access to any government record, the custodian thereof shall redact from that record any information which discloses the social security number, credit card number, unlisted telephone number, or driver license number of any person; except for use by any government agency, including any court or law enforcement agency, in carrying out its functions, or any private person or entity acting on behalf thereof, or any private person or entity seeking to enforce payment of court-ordered child support; except with respect to the disclosure of driver information by the New Jersey Motor Vehicle Commission as permitted by section 2 of P.L.1997, c.188 (C.39:2-3.4); and except that a social security number contained in a record required by law to be made, maintained or kept on file by a public agency shall be disclosed when access to the document or disclosure of that information is not otherwise prohibited by State or federal law, regulation or order or by State statute, resolution of either or both houses of the Legislature, Executive Order of the Governor, rule of court or regulation promulgated under the authority of any statute or executive order of the Governor. Except where an agency can demonstrate an emergent need, a regulation that limits access to government records shall not be retroactive in effect or applied to deny a request for access to a government record that is pending before the agency, the council or a court at the time of the adoption of the regulation.

b. A copy or copies of a government record may be purchased by any person upon payment of the fee prescribed by law or regulation. Except as otherwise provided by law or regulation, the fee assessed for the duplication of a government record embodied in the form of printed matter shall be

$0.05 per letter size page or smaller, and $0.07 per legal size page or larger. If a public agency can demonstrate that its actual costs for duplication of a government record exceed the foregoing rates, the public agency shall be permitted to charge the actual cost of duplicating the record. The actual cost of duplicating the record, upon which all copy fees are based, shall be the cost of materials and supplies used to make a copy of the record, but shall not include the cost of labor or other overhead expenses associated with making the copy except as provided for in subsection c. of this section. Access to electronic records and non-printed materials shall be provided free of charge, but the public agency may charge for the actual costs of any needed supplies such as computer discs.

c. Whenever the nature, format, manner of collation, or volume of a government record embodied in the form of printed matter to be inspected, examined, or copied pursuant to this section is such that the record cannot be reproduced by ordinary document copying equipment in ordinary business size or involves an extraordinary expenditure of time and effort to accommodate the request, the public agency may charge, in addition to the actual cost of duplicating the record, a special service charge that shall be reasonable and shall be based upon the actual direct cost of providing the copy or copies; provided, however, that in the case of a municipality, rates for the duplication of particular records when the actual cost of copying exceeds the foregoing rates shall be established in advance by ordinance. The requestor shall have the opportunity to review and object to the charge prior to it being incurred.

d. A custodian shall permit access to a government record and provide a copy thereof in the medium requested if the public agency maintains the record in that medium. If the public agency does not maintain the record in the medium requested, the custodian shall either convert the record to the medium requested or provide a copy in some other meaningful medium. If a request is for a record: (1) in a medium not routinely used by the agency; (2) not routinely developed or maintained by an agency; or (3) requiring a substantial amount of manipulation or programming of information technology, the agency may charge, in addition to the actual cost of duplication, a special charge that shall be reasonable and shall be based on the cost for any extensive use of information technology, or for the labor cost of personnel providing the service, that is actually incurred by the agency or attributable to the agency for the programming, clerical, and supervisory assistance required, or both.

e. Immediate access ordinarily shall be granted to budgets, bills, vouchers, contracts, including collective negotiations agreements and indi-

vidual employment contracts, and public employee salary and overtime information.

f. The custodian of a public agency shall adopt a form for the use of any person who requests access to a government record held or controlled by the public agency. The form shall provide space for the name, address, and phone number of the requestor and a brief description of the government record sought. The form shall include space for the custodian to indicate which record will be made available, when the record will be available, and the fees to be charged. The form shall also include the following: (1) specific directions and procedures for requesting a record; (2) a statement as to whether prepayment of fees or a deposit is required; (3) the time period within which the public agency is required by P.L.1963, c.73 (C.47:1A-1 et seq.) as amended and supplemented, to make the record available; (4) a statement of the requestor's right to challenge a decision by the public agency to deny access and the procedure for filing an appeal; (5) space for the custodian to list reasons if a request is denied in whole or in part; (6) space for the requestor to sign and date the form; (7) space for the custodian to sign and date the form if the request is fulfilled or denied. The custodian may require a deposit against costs for reproducing documents sought through an anonymous request whenever the custodian anticipates that the information thus requested will cost in excess of $5 to reproduce.

g. A request for access to a government record shall be in writing and hand-delivered, mailed, transmitted electronically, or otherwise conveyed to the appropriate custodian. A custodian shall promptly comply with a request to inspect, examine, copy, or provide a copy of a government record. If the custodian is unable to comply with a request for access, the custodian shall indicate the specific basis therefor on the request form and promptly return it to the requestor. The custodian shall sign and date the form and provide the requestor with a copy thereof. If the custodian of a government record asserts that part of a particular record is exempt from public access pursuant to P.L.1963, c.73 (C.47:1A-1 et seq.) as amended and supplemented, the custodian shall delete or excise from a copy of the record that portion which the custodian asserts is exempt from access and shall promptly permit access to the remainder of the record. If the government record requested is temporarily unavailable because it is in use or in storage, the custodian shall so advise the requestor and shall make arrangements to promptly make available a copy of the record. If a request for access to a government record would substantially disrupt agency operations, the custodian may deny access to the record after attempting to reach a rea-

sonable solution with the requestor that accommodates the interests of the requestor and the agency.

h. Any officer or employee of a public agency who receives a request for access to a government record shall forward the request to the custodian of the record or direct the requestor to the custodian of the record.

i. Unless a shorter time period is otherwise provided by statute, regulation, or executive order, a custodian of a government record shall grant access to a government record or deny a request for access to a government record as soon as possible, but not later than seven business days after receiving the request, provided that the record is currently available and not in storage or archived. In the event a custodian fails to respond within seven business days after receiving a request, the failure to respond shall be deemed a denial of the request, unless the requestor has elected not to provide a name, address or telephone number, or other means of contacting the requestor. If the requestor has elected not to provide a name, address, or telephone number, or other means of contacting the requestor, the custodian shall not be required to respond until the requestor reappears before the custodian seeking a response to the original request. If the government record is in storage or archived, the requestor shall be so advised within seven business days after the custodian receives the request. The requestor shall be advised by the custodian when the record can be made available. If the record is not made available by that time, access shall be deemed denied.

j. A custodian shall post prominently in public view in the part or parts of the office or offices of the custodian that are open to or frequented by the public a statement that sets forth in clear, concise and specific terms the right to appeal a denial of, or failure to provide, access to a government record by any person for inspection, examination, or copying or for purchase of copies thereof and the procedure by which an appeal may be filed.

k. The files maintained by the Office of the Public Defender that relate to the handling of any case shall be considered confidential and shall not be open to inspection by any person unless authorized by law, court order, or the State Public Defender.

6. Section 1 of P.L.1959, c.43 (C.48:2-56) is amended to read as follows:

C.48:2-56 Fees and charges.

1. The Board of Public Utilities is hereby empowered, authorized and required to charge and collect fees and charges for the purposes and in the amounts hereinafter set out.

A. Filing of Annual Reports

	Charge Per Report
(1) Sewer	$20.00
Classes A, B, C, and D	20.00
Class E (Income Sheets)	5.00
(2) Railroad	50.00
Nonoperating	10.00
(3) Telephone	
Class A	50.00
Class B	20.00
(4) Water	
Class A	50.00
Classes B and C	20.00
Class D	10.00
Class E (Income Sheets)	5.00
(5) Bus	
Class A	50.00
Class B	25.00
Class C	10.00
(6) Gas	50.00
(7) Electric	50.00
(8) Combination gas and electric	100.00
(9) (Deleted by amendment, P.L.1993, c.124).	

B. Examination and Audit of Annual Reports

(1) The total fee is to be based on reported intrastate operating revenues, and, except as noted below for certain interstate utilities, will consist of a base charge plus an incremental charge per unit of $1,000.00 or fraction thereof for each such unit in excess of the lower limit of the indicated range.

If the Reported Operating Revenues Fall Within the Range			The Base Charge is	The Incremental Charge per $1,000 Unit is
Under		$10,000	$10.00	.....
$10,000	to	25,000	15.00	.....
25,000	to	50,000	25.00	.....
50,000	to	500,000	25.00	$0.50/M
500,000	to	1,000,000	250.00	0.39/M
1,000,000	to	5,000,000	445.00	0.15/M
5,000,000	to	10,000,000	1,045.00	0.10/M
10,000,000	to	50,000,000	1,545.00	0.08/M

50,000,000	to	100,000,000	4,745.00	0.07/M
100,000,000	to	200,000,000	8,245.00	0.05/M
200,000,000 and over			13,245.00	0.03/M

(2) Public utilities engaged in interstate commerce who are required to file annual reports with the board and who derive 50% or more of their operating revenues from interstate commerce shall pay a fee for examination and audit of their annual report in accordance with the following schedule. The board may establish reasonable rules for the determination of such intrastate revenues in cases where the same have not been reported.

For Intrastate Revenues Within the Range			The Fee is
Under		$10,000	$25.00
$10,000	to	50,000	50.00
50,001	to	200,000	75.00
200,001	to	500,000	150.00
500,001	to	1,000,000	300.00
over 1,000,000			500.00

C. Pamphlets and Publications	Charge Per Copy
(1) Annual report of the Board of Public Utilities	$2.00
(2) Utility annual report forms	
Sewer	5.00
Income Sheets	2.00
Railroad	10.00
Telephone	10.00
Water	
Classes A, B and C	10.00
Class D	5.00
Class E (Income Sheets)	2.00
Buses	
Class A	10.00
Class B	5.00
Class C	2.00
Gas	10.00
Electric	10.00
(3) Pamphlets containing rules and regulations and all other pamphlets published by the board	
Pamphlets with less than 25 pages	2.00

Pamphlets with 25 pages or more but less than 50 pages 2.50
Pamphlets with 50 pages or more 2.50
Plus $0.25 for each additional 25 pages or fraction thereof in excess of 50 pages
(4) Uniform system of accounts 10.00
(5) Photocopies of documents or reports--per page ..... up to $0.10 for letter size or smaller up to $0.15 for legal size or larger

	Charge for Each Year Covered
(6) Compilation of board's decisions	$2.00
(7) Statistics of utilities--private and municipal	3.00

D. Subpoenas--Petition for and Issuance

	Charge per Subpoena
(1) Subpoena for the attendance of witnesses	$2.00
(2) Subpoena duces tecum	5.00

E. Applications and Petitions Submitted to the Board

(1) For approval of issuance of securities or evidences of indebtedness the filing fee shall be based on the estimated proceeds before costs and expenses of issuance. When the actual proceeds become known, the fee will be adjusted accordingly. The total filing fee will consist of a base charge plus an incremental charge per unit of $1,000.00 or fraction thereof of proceeds in excess of the lower limit of the range of the indicated block. In the case of stock dividends, the proceeds shall be taken as the amount to be transferred from earned surplus account.

If the proceeds of the Transaction Fall Within the Range			The Base Charge is	The Incremental Charge per $1,000 Unit is
Under $5,000			$10.00	.....
$5,001	to	10,000	15.00	.....
10,001	to	20,000	30.00	.....
20,001	to	30,000	50.00	.....
30,001	to	100,000	50.00	$0.70/M
100,001	to	500,000	99.00	0.60/M

500,001	to	1,000,000	339.00	0.50/M
1,000,001	to	5,000,000	589.00	0.40/M
5,000,001	to	10,000,000	2,189.00	0.35/M
10,000,001	to	25,000,000	3,939.00	0.30/M
25,000,001 and over			8,439.00	0.25/M

(2) For increases in rates or fares, whether by petition, filing of revised tariff, or by petition for negotiated relief under R.S.48:2-21.1, provided that when two petitions or a petition with an amendment relate to one and the same increase only one fee shall be charged, the fees are to be based on the proposed increase in annual operating revenues for which application is made and will consist of a base charge plus an incremental charge per unit of $1,000.00 or fraction thereof for each such unit in excess of the lower limit of the indicated range.

If the Proposed Increase Falls Within the Range			The Base Charge is	The Incremental Charge per $1,000 Unit is
Up	to	$5,000	$25.00	.....
$5,000	to	30,000	25.00	$2.00/M
30,000	to	100,000	75.00	1.80/M
100,000	to	300,000	201.00	1.60/M
300,000	to	600,000	521.00	1.40/M
600,000	to	1,000,000	941.00	1.20/M
1,000,000	to	5,000,000	1,421.00	1.00/M
5,000,000	to	10,000,000	5,421.00	0.80/M
10,000,000	to	20,000,000	9,421.00	0.60/M
20,000,000 and over			15,421.00	0.30/M

Filing of an initial rate, a contract for a special rate or any other document involving a tariff change not otherwise provided for above..... $25.00

In addition to the filing fee computed in accordance with the foregoing, the public utility shall pay a processing fee of 1/10 of 1% of the new or initial annual operating revenues or increase in annual operating revenues that may be authorized by the board, which fee in no event shall be less than $25.00

Filing automatic adjustment clause tariff revision..... $25.00

(3) For sales of property or leases of property

(Based on the Consideration or Annual Rental)

			Filing Fee
Up	to	$1,000	$10.00
$1,001	to	5,000	25.00

5,001 to 10,000 ..... 50.00
10,001 to 20,000 ..... 75.00
20,001 to 50,000 ..... 150.00
50,001 to 100,000 ..... 250.00
100,001 and over 350.00

(4) For approval of mergers Filing Fee

The filing fee for approval of mergers is to be based on the total utility plant account of the surviving utility and will be computed according to the schedule of charges set forth herein for sales of property or leases of property.

(5) For approval of a municipal consent $20.00
Where petition requests approval of more than one municipal consent on the same route for each such additional consent 10.00

(6) For rehearing, reopening, reargument or reconsideration of any matter 15.00

(7) For approval of contracts under Revised Statutes 48:3-7.1 ..... 100.00

(8) For establishment of new railroad-highway crossing at grade 50.00

(9) For grade crossing separation 100.00

(10) For relocation or widening of grade crossing 100.00

(11) For abandonment of grade crossing 50.00

(12) For discontinuance of station agents and stations 50.00

(13) For authority to exercise eminent domain-- for each separate parcel of property involved 100.00

(14) Any application or petition not herein specifically designated or described 25.00

(15) For inspection or test of electric, water or gas meter 5.00
(This fee is to be returned to the customer and collected from the utility in cases where the meter is found to be registering fast beyond the allowable limit of accuracy established by the board.)

F. Autobuses or Other Motor Vehicles

(1) For approval of transfer of municipal consents $25.00

(2) For approval of conditional sale contract, notes or chattel mortgage based on the principal amount involved Filing Fee

$5,000 or less	10.00
5,001 to 10,000	15.00
10,001 to 25,000	25.00
25,001 to 50,000	50.00
50,001 to 100,000	75.00
Over $100,000	100.00

(3) For changes, extensions or consolidation of existing autobus routes 25.00

(4) For approval of leases of equipment 25.00

Charges

(5) For inspection of new bus equipment and issuance of certificate of compliance--each bus 115.00

(6) Specification recheck--each bus 50.00

(7) For issuance of duplicate certificate of compliance—each 2.00

(8) For inspection of autobus for restoration to service after removal for lack of insurance 70.00

(9) For each periodic inspection of autobus by board's inspector (including first recheck) -- each bus 85.00

(10) Additional maintenance recheck--each bus 35.00

(11) Self inspection--each bus 30.00

G.. Miscellaneous Filing Fee

(1) Formal complaints--Costs to be assessed against the respondent utility if the complaint is sustained by the board $25.00

(2) Answers to formal complaints 10.00

(3) Where the answer sets up a prayer for affirmative relief 25.00

(4) Amendment to any petition or answer 10.00

(5) Reports and statements filed by pipeline companies as required by board's rules issued under the authority of Title 48 of the Revised Statutes except accident reports 200.00

(6) (Deleted by amendment, P.L.1993, c.124).

	Charge Per Copy
(7) Extra copy of any decision, order or certificate of the board	up to $0.10 per letter size page or smaller, up to $0.15 per legal size page or larger
(8) Certification of any document	2.50

All filing fees shall be paid at the time of the original filing of the report, application, petition or other document or paper in the matter. No pleading will be considered filed until the appropriate fees are paid. In cases where such payment is not feasible, as may be determined by the board, the amount will be due and payable on the presentation of an invoice.

When a petition covers more than one matter or makes a prayer for relief with respect to more than one matter, the fee for filing the same shall be the sum of the fees that would be paid for each individual matter.

When several utilities or petitioners join in the filing of a single petition, then the fees herein provided shall apply to each petitioner as may be appropriate.

7. This act shall take effect immediately but shall be inoperative until the 60th day following enactment.

Approved September 10, 2010.

CHAPTER 76

AN ACT directing the Chief Technology Officer in the Office of Information Technology to study and report on the potential benefits of expanding the use of electronic transactions, including the use of electronic signature and electronic record by the State.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. a. As used in this section:

"Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

"Electronic record" means a record created, generated, sent, communicated, received, or stored by electronic means.

"Office of Information Technology" means the Office of Information Technology established by section 9 of P.L.2007, c.56 (C.52:18A-227) in but not of the Department of the Treasury.

b. The Chief Technology Officer in the Office of Information Technology shall conduct a study and prepare and submit, within six months of the effective date of this act, to the Governor and both houses of the Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), the Chair of the Senate Commerce Committee, and the Chair of the Assembly Telecommunications and Utilities Committee, or the respective successor committees, as appropriate, a report in electronic form, which shall make findings and recommendations concerning the potential benefits of expanding the use of electronic transactions, including the use of electronic signature and electronic record by the State.

c. The report shall include, but shall not be limited to, the following:

(1) An analysis of information obtained from users of the State government computer systems, including citizens, State agencies, universities, community colleges, local education agencies, and other units of local government. The information shall pertain to the use of electronic transactions, including the use of electronic signature and electronic record.

(2) Specific proposals that would, if implemented, expand the use of electronic transactions, including the use of electronic signature and electronic record in State government, and which shall include the establishment of an ongoing function within State government to execute the expansion. The proposals shall address the feasibility of expanding activities involving the use of electronic transaction, including the use of electronic signature and electronic record, that are suitable for utilization within the State government computer systems, as well as those activities suitable for governmental entities to pursue independently. The proposals shall also include information concerning expected costs and benefits of such expansion; recommendations for funding recurring and nonrecurring costs of the specific proposals; and a model to support the proposals.

(3) An evaluation of the opportunities for efficiencies and potential cost savings in State government through the expanded use of electronic transactions, including the use of electronic signature and electronic record.

(4) An assessment of opportunities for the State to obtain federal and local support to further implement the use of electronic transactions, including the use of electronic signature and electronic record.

(5) Proposed legislation that may be considered by the Legislature to ensure implementation by the State agencies.

(6) Any other information deemed relevant to the subject matter of the report.

2. This act shall take effect immediately and shall expire on the 30th day following submission of the report required to be prepared under section 1 of this act.

Approved September 10, 2010.

CHAPTER 77

AN ACT concerning alcoholic beverages served at bingo games, and amending P.L.1954, c.6.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Section 10 of P.L.1954, c.6 (C.5:8-33) is amended to read as follows:

C.5:8-33 Frequency of games; sale of alcoholic beverages.

10. No game or games of chance shall be held, operated or conducted under any license issued under this act more often than on six days in any one calendar month, or in any room or outdoor area where alcoholic beverages are sold or served during the progress of the game or games, except that alcoholic beverages may be sold or served during the progress of a game or games held on the licensed premises of the holder of a plenary retail consumption license pursuant to R.S.33:1-12.

2. This act shall take effect immediately.

Approved September 10, 2010.

CHAPTER 78

AN ACT concerning emergency operations plans and supplementing Title 52 of the Revised Statutes.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

C.52:27D-224.3 Emergency operations plan for sports and entertainment facilities.

1. All sports and entertainment facilities in the State shall annually prepare and maintain an emergency operations plan in coordination with the appropriate local fire and emergency response agencies. A copy of the plan shall be filed each year with the municipal emergency management coordinator who serves the municipality in which the sports and entertainment facility is situated. The emergency operations plan shall not be considered a public record pursuant to P.L.1963, c.73 (C.47:1A-1 et seq.) or P.L.2001, c.404 (C.47:1A-5 et al.).

For the purposes of this act, "sports and entertainment facility" means any privately or publicly owned or operated facility capable of seating more than 5,000 people and is used primarily for sports contests, entertainment, or both, such as a theater, stadium, museum, arena, automobile racetrack, or other place where performances, concerts, exhibits, games or contests are held.

2. This act shall take effect immediately.

Approved September 10, 2010.

CHAPTER 79

AN ACT concerning the tax on motor fuels, amending P.L.2010, c.22

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Section 2 of P.L.2010, c.22 (C.54:39-102) is amended to read as follows:

C.54:39-102 Definitions relative to taxation of motor fuels.

2. For the purposes of P.L.2010, c.22 (C.54:39-101 et al.), the following terms have the following meanings:

"Aviation fuel" means aviation gasoline or aviation grade kerosene or any other fuel that is used in aircraft.

"Aviation fuel dealer" means a person that acquires aviation fuel from a supplier or from another aviation fuel dealer for subsequent sale.

"Aviation gasoline" means fuel specifically compounded for use in reciprocating aircraft engines.

"Aviation grade kerosene" means any kerosene type jet fuel covered by ASTM Specification D 1655 or meeting specification MIL-DTL-5624T (Grade JP-5) or MIL-DTL-83133E (Grade JP-8).

"Blend stock" means a petroleum product component of motor fuel, such as naphtha, reformate, toluene or kerosene, that can be blended for use in a motor fuel without further processing. The term includes those petroleum products defined by regulations issued pursuant to sections 4081 and 4082 of the federal Internal Revenue Code of 1986 (26 U.S.C. ss. 4081 and 4082), but does not include any substance that:

a. will be ultimately used for consumer nonmotor fuel use; and

b. is sold or removed in fifty-five gallon drum quantities or less at the time of the sale or removal.

"Blended fuel" means a mixture composed of motor fuel and another liquid, including blend stock other than a de minimis amount of a product such as carburetor detergent or oxidation inhibitor, that can be used as a fuel in a highway vehicle. "Blended fuel" includes but is not limited to gasohol, biodiesel, ethanol, methanol, fuel grade alcohol, diesel fuel enhancers and resulting blends.

"Blender" means a person that produces blended motor fuel outside the terminal transfer system.

"Blending" means the mixing of one or more petroleum products, with or without another product, regardless of the original character of the product blended, if the product obtained by the blending is capable of use or otherwise sold for use in the generation of power for the propulsion of a motor vehicle, an airplane, or a motorboat. The term does not include the blending that occurs in the process of refining by the original refiner of crude petroleum or the blending of products known as lubricating oil and greases, or the commingling of products during transportation in a pipeline.

"Blocked pump" means a pump that, because of the pump's physical limitations, for example, a short hose, cannot be used to fuel a vehicle, or a pump that is locked by the vendor after each sale and unlocked by the vendor in response to a request by a buyer for undyed kerosene for use other than as a fuel in a diesel-powered highway vehicle or train.

"Biodiesel" means any motor fuel or mixture of motor fuels that is derived, in whole or in part, from agricultural products or animal fats, or the wastes of such products or fats, and is advertised as, offered for sale as, suitable for use or used as motor fuel in an internal combustion engine.

"Bulk plant" means a bulk fuel storage and distribution facility that is not a terminal within the terminal transfer system and from which fuel may be removed by truck or rail car.

"Bulk transfer" means a transfer of motor fuel from one location to another by pipeline tender, marine delivery, or any other conveyance within the terminal transfer system and includes a transfer within a terminal.

"Consumer" means the ultimate user of fuel.

"Delivery" means the placing of fuel into the fuel tank of a motor vehicle or into a bulk fuel storage and distribution facility.

"Diesel fuel" means a liquid that is commonly or commercially known or sold as a fuel that is suitable for use in a diesel-powered highway vehicle. A liquid meets this requirement if, without further processing or blending, the liquid has practical and commercial fitness for use in the propulsion engine of a diesel-powered highway vehicle. "Diesel fuel" includes biodiesel, number 1 and number 2 diesel.

"Diesel-powered motor vehicle" means a motor vehicle that is propelled by a diesel-powered engine.

"Director" means the Director of the Division of Taxation in the Department of the Treasury.

"Distributor" means a person who acquires motor fuel from a supplier, permissive supplier or from another distributor for subsequent sale.

"Dyed fuel" means dyed diesel fuel or dyed kerosene that is required to be dyed pursuant to United States Environmental Protection Agency rules or is dyed pursuant to Internal Revenue Service rules or pursuant to any other requirements subsequently set by the United States Environmental Protection Agency or Internal Revenue Service including any invisible marker requirements.

"Export" means to obtain fuel in this State for sale or other distribution outside of this State. In applying this definition, fuel delivered out-of-State by or for the seller constitutes an export by the seller, and fuel delivered out-of-State by or for the purchaser constitutes an export by the purchaser.

"Exporter" means any person, other than a supplier, who purchases fuel in this State for the purpose of transporting or delivering the fuel outside of this State.

"Fuel" means:

a. a liquid or gaseous substance commonly or commercially known or sold as gasoline, regardless of its classification or use; and

b. a liquid or gaseous substance used, offered for sale or sold for use, either alone or when mixed, blended, or compounded, which is capable of generating power for the propulsion of motor vehicles upon the public highways.

"Fuel grade alcohol" means a methanol or ethanol with a proof of not less than one hundred ninety degrees (determined without regard to dena-

turants) and products derived from that methanol and ethanol for blending with motor fuel.

"Fuel transportation vehicle" means any vehicle designed for highway use which is also designed or used to transport fuel.

"Gasoline" means all products commonly or commercially known or sold as gasoline that are suitable for use as a motor fuel. Gasoline does not include products that have an ASTM octane number of less than seventy-five as determined by the "motor method," ASTM D2700-92. The term does not include racing gasoline or aviation gasoline, but for administrative purposes does include fuel grade alcohol.

"General aviation airport" means a civil airport located in this State other than the international airports located in Newark and Atlantic City.

"Gross gallons" means the total measured volume of fuel, measured in U.S. gallons, exclusive of any temperature or pressure adjustments.

"Import" means to bring fuel into this State by any means of conveyance other than in the fuel supply tank of a motor vehicle. In applying this definition, fuel delivered into this State from out-of-State by or for the seller constitutes an import by the seller, and fuel delivered into this State from out-of-State by or for the purchaser constitutes an import by the purchaser.

"Import verification number" means the number assigned by the director with respect to a single fuel transportation vehicle delivery into this State from another state upon request for an assigned number by an importer or the transporter carrying fuel into this State for the account of an importer.

"Importer" includes any person who is the importer of record, pursuant to federal customs law, with respect to fuel. If the importer of record is acting as an agent, the person for whom the agent is acting is the importer. If there is no importer of record of fuel imported into this State, the owner of the fuel at the time it is brought into this State from another state or foreign country is the importer.

"Invoiced gallons" means the gallons actually billed on an invoice for payment to a supplier which shall be either gross gallons or net gallons on the original manifest or bill of lading.

"Kerosene" means the petroleum fraction containing hydrocarbons that are slightly heavier than those found in gasoline and naphtha, with a boiling range of one hundred forty-nine to three hundred degrees Celsius.

"Liquefied petroleum gas dealer" means a person who acquires liquefied petroleum gas for subsequent sale to a consumer and delivery into the vehicle fuel supply tank.

"Liquid" means any substance that is liquid in excess of sixty degrees Fahrenheit and at a pressure of fourteen and seven-tenths pounds per square inch absolute.

"Motor fuel" means gasoline, diesel fuel, kerosene and blended fuel.

"Motor vehicle" means an automobile, truck, truck-tractor or any motor bus or self-propelled vehicle not exclusively operated or driven upon fixed rails or tracks. "Motor vehicle" does not include tractor-type, motorized farm implements and equipment but does include motor vehicles of the truck-type, pickup truck-type, automobiles, and other vehicles required to be registered and licensed each year pursuant to the provisions of the motor vehicle license and registration laws of this State. "Motor vehicle" does not include tractors and machinery designed for off-road use but capable of movement on roads at low speeds.

"Net gallons" means the total measured volume of fuel, measured in U.S. gallons, when corrected to a temperature of sixty degrees Fahrenheit and a pressure of fourteen and seven-tenths pounds per square inch absolute.

"Permissive supplier" means an out-of-State supplier that elects, but is not required, to have a supplier's license pursuant to P.L.2010, c.22 (C.54:39-101 et al.).

"Person" means an individual, a partnership, a limited liability company, a firm, an association, a corporation, estate, trustee, business trust, syndicate, this State, a county, city, municipality, school district or other political subdivision of this State, or any corporation or combination acting as a unit or any receiver appointed by any state or federal court.

"Position holder" means the person who holds the inventory position in fuel in a terminal, as reflected on the records of the terminal operator. A person holds the inventory position in fuel when that person has a contract with the terminal operator for the use of storage facilities and terminating services for fuel at the terminal. The term includes a terminal operator who owns fuel in the terminal.

"Propel" means operate the drive engine of a motor vehicle, whether the vehicle is in motion or at rest.

"Qualified terminal" means a terminal which has been assigned a terminal control number by the federal Internal Revenue Service.

"Rack" means a mechanism for delivering fuel from a refinery or terminal into a railroad tank car, a fuel transportation vehicle or other means of transfer outside of the terminal transfer system.

"Racing gasoline" means gasoline that contains lead, has an octane rating of 110 or higher, does not have detergent additives, and is not suitable for use as a motor fuel in a motor vehicle used on public highways.

"Refiner" means a person that owns, operates, or otherwise controls a refinery.

"Refinery" means a facility used to produce fuel from crude oil, unfinished oils, natural gas liquids, or other hydrocarbons and from which fuel may be removed by pipeline, by ship or barge, or at a rack.

"Removal" means any physical transfer of fuel from a terminal, manufacturing plant, pipeline, ship or barge, refinery, from customs custody, or from a facility that stores fuel.

"Retail dealer" means a person that engages in the business of selling or dispensing motor fuel to the consumer within this State.

"Supplier" means a person that is:

a. registered or required to be registered pursuant to section 4101 of the federal Internal Revenue Code of 1986 (26 U.S.C. s.4101) for transactions in fuels in the terminal transfer system; and

b. satisfies one or more of the following:

(1) is the position holder in a terminal or refinery in this State;

(2) imports fuel into this State from a foreign country;

(3) acquires fuel from a terminal or refinery in this State from a position holder pursuant to either a two-party exchange or a qualified buy-sell arrangement which is treated as an exchange and appears on the records of the terminal operator; or

(4) is the position holder in a terminal or refinery outside this State with respect to fuel which that person imports into this State. A terminal operator shall not be considered a supplier based solely on the fact that the terminal operator handles fuel consigned to it within a terminal.

"Supplier" also means a person that produces fuel grade alcohol or alcohol-derivative substances in this State, produces fuel grade alcohol or alcohol-derivative substances for import to this State into a terminal, or acquires upon import by truck, rail car or barge into a terminal, fuel grade alcohol or alcohol-derivative substances.

"Supplier" includes a permissive supplier unless the "Motor Fuel Tax Act," P.L.2010, c.22 (C.54:39-101 et seq.) specifically provides otherwise.

"Terminal" means a bulk fuel storage and distribution facility:

a. which is a qualified terminal,

b. to which fuel is supplied by pipeline or marine vessel, or, for the purposes of fuel grade alcohol, is supplied by truck or railcar, and

c. from which fuel may be removed at a rack.

"Terminal bulk transfer" includes but is not limited to the following:

a. a boat or barge movement of fuel from a refinery or terminal to a terminal;

b. a pipeline movement of fuel from a refinery or terminal to a terminal;

c. a book transfer of product within a terminal between suppliers prior to completion of removal across the rack; and

d. a two-party exchange within a terminal between licensed suppliers.

"Terminal operator" means a person that owns, operates, or otherwise controls a terminal. A terminal operator may own the fuel that is transferred through, or stored in, the terminal.

"Terminal transfer system" means the fuel distribution system consisting of refineries, pipelines, vessels, and terminals. Fuel in a refinery, pipeline, vessel, barge or terminal is in the terminal transfer system. Fuel in the fuel supply tank of an engine, or in a tank car, rail car, trailer, truck, or other equipment suitable for ground transportation is not in the terminal transfer system.

"Transmix" means the buffer or interface between two different products in a pipeline shipment, or a mix of two or more different products within a refinery or terminal that results in an off-grade mixture.

"Transporter" means an operator of a pipeline, barge, railroad or fuel transportation vehicle engaged in the business of transporting fuel.

"Two-party exchange" means a transaction in which:

a. the fuel is transferred from one licensed supplier or licensed permissive supplier to another licensed supplier or licensed permissive supplier;

b. the transaction includes a transfer from the person that holds the original inventory position for fuel in the terminal as reflected on the records of the terminal operator;

c. the exchange transaction is simultaneous with removal from the terminal by the receiving exchange partner; and

d. the terminal operator in its books and records treats the receiving exchange party as the supplier which removes the product across a terminal rack for purposes of reporting such events to this State.

"Ultimate vendor - blocked pumps" means a person that sells clear kerosene at a retail site through a blocked pump and who is registered with both the Division of Taxation in the Department of the Treasury and the federal Internal Revenue Service as an ultimate vendor - blocked pumps.

"Undyed diesel fuel" means diesel fuel that is not subject to the federal Environmental Protection Agency dyeing requirements, or has not been dyed in accordance with federal Internal Revenue Service fuel dyeing provisions.

"Undyed kerosene" means kerosene that is not subject to the federal Environmental Protection Agency dyeing requirements, or has not been dyed in accordance with federal Internal Revenue Service fuel dyeing provisions.

"Vehicle fuel supply tank" means any receptacle on a motor vehicle from which fuel is supplied to propel the motor vehicle.

2. Section 3 of P.L.2010, c.22 (C.54:39-103) is amended to read as follows:

C.54:39-103 Tax imposed on fuel used, consumed in State.

3. a. A tax is imposed on fuel used or consumed in this State as follows:

(1) Motor fuel:

(a) at the rate of 10.5 cents per gallon for:

gasoline and

blended fuel that contains gasoline or that is intended for use as gasoline;

(b) at the rate of 13.5 cents per gallon for:

diesel fuel,

blended fuel that contains diesel fuel or that is intended for use as diesel fuel, and

kerosene;

(2) Liquefied Petroleum Gas:

at the rate of one-half of the tax imposed under subsection a. of this section on gasoline, or 5.25 cents per gallon;

(3) Aviation gasoline:

at the rate of 10.5 cents per gallon.

b. In addition to the tax, if any, imposed pursuant to subsection a. of this section a tax is imposed on aviation fuel for distribution to a general aviation airport at the rate of 2 cents per gallon.

c. The taxes imposed by this section are imposed on the consumer, but shall be precollected pursuant to the terms of the "Motor Fuel Tax Act," P.L.2010, c.22 (C.54:39-101 et seq.), for the facility and convenience of the consumer.

3. Section 4 of P.L.2010, c.22 (C.54:39-104) is amended to read as follows:

C.54:39-104 Measurement by invoiced gallons of fuel removed.

4. a. The tax imposed by section 3 of P.L.2010, c.22 (C.54:39-103) on the use of motor fuel and aviation fuel shall be measured by invoiced gallons of fuel removed, other than by a bulk transfer:

(1) From the terminal transfer system within this State;

(2) From the terminal transfer system outside this State for delivery to a location in this State as represented on the shipping papers, provided that the supplier imports the motor fuel or aviation fuel for the account of the supplier, or the supplier has made a tax precollection election pursuant to section 18 of P.L.2010, c.22 (C.54:39-118); and

(3) Upon sale in a terminal or refinery in this State to a person not holding a supplier's or permissive supplier's license.

b. Except as provided in paragraph (2) of subsection a. of this section, the tax imposed by section 3 of P.L.2010, c.22 (C.54:39-103) on the use of motor fuel and aviation fuel which is imported into this State, other than by a bulk transfer, is due at the time the product is imported into the State, which tax shall be paid within three business days from the date that the import verification number is assigned or within three business days from the date that the motor fuel or aviation fuel entered this State, whichever is sooner, and shall be measured by invoiced gallons received outside this State at a refinery, terminal or at a bulk plant for delivery to a destination in this State.

c. The tax imposed by section 3 of P.L.2010, c.22 (C.54:39-103) on blended fuel made in this State is payable by the blender at the point the blended fuel is made in this State outside of the terminal transfer system. The tax imposed by section 3 of P.L.2010, c.22 (C.54:39-103) on blended fuel imported into this State is payable by the importer of that blended fuel, provided the tax imposed by section 3 of P.L.2010, c.22 (C.54:39-103) has not already been paid to a permissive supplier through a precollection agreement. The number of gallons of blended fuel on which the tax shall be imposed shall be equal to the difference between the number of gallons of blended fuel made and the number of gallons of motor fuel that was previously taxed by section 3 of P.L.2010, c.22 (C.54:39-103) and used to make the blended fuel.

d. The tax imposed on aviation fuel by subsection b. of section 3 of P.L.2010, c.22 (C.54:39-103) is payable by the person purchasing or acquiring the aviation fuel within this State and shall be precollected by the aviation fuel dealer or supplier making the sale. A person, whether or not licensed under P.L.2010, c.22 (C.54:39-101 et al.), who uses, acquires for use, sells or delivers for use in motor vehicles any aviation fuel taxable pursuant to P.L.2010, c.22 (C.54:39-101 et al.) shall be liable for the tax imposed by subsection a. of section 3 of P.L.2010, c.22 (C.54:39-103) as if the aviation fuel were gasoline or kerosene defined as motor fuel.

e. The tax imposed by section 3 of P.L.2010, c.22 (C.54:39-103) on liquefied petroleum gas is payable by the person purchasing or acquiring the liquefied petroleum gas within this State for use in a motor vehicle and

shall be precollected by the liquefied petroleum gas dealer making the sale. A person, whether or not licensed under P.L.2010, c.22 (C.54:39-101 et al.), who uses, acquires for use, sells or delivers for use in motor vehicles any liquefied petroleum gas taxable pursuant to P.L.2010, c.22 (C.54:39-101 et al.) shall be liable for the tax imposed by subsection a. of section 3 of P.L.2010, c.22 (C.54:39-103) along with applicable penalties.

4. Section 5 of P.L.2010, c.22 (C.54:39-105) is amended to read as follows:

C.54:39-105 Records of fuel received, sold, used; report.

5. a. A supplier, permissive supplier, importer, exporter, blender, distributor, liquefied petroleum gas dealer, or aviation fuel dealer shall keep a record of all fuel received, sold or used which shall include the name of the purchaser, the number of gallons used or sold and the date of the use or sale. A supplier, permissive supplier, importer, exporter, blender, distributor, liquefied petroleum gas dealer, or aviation fuel dealer shall also deliver with each consignment of fuel to a purchaser within this State a written statement containing the date and number of gallons delivered and the names of the purchaser and seller, and that statement shall show a separate charge for the tax imposed by section 3 of P.L.2010, c.22 (C.54:39-103) on each gallon; provided however, that a statement shall not be required to be delivered by the supplier, permissive supplier, importer, exporter, blender, distributor, liquefied petroleum gas dealer, or aviation fuel dealer if a sale of fuel is made at a service station and the fuel is delivered directly into a vehicle fuel supply tank. The records and written statements shall be preserved by a supplier, permissive supplier, importer, exporter, blender, distributor, liquefied petroleum gas dealer, or aviation fuel dealer and the purchaser respectively, for a period of a minimum of four years and shall be offered for inspection at the request of the director.

b. A supplier, permissive supplier, importer, exporter, blender, distributor, liquefied petroleum gas dealer, or aviation fuel dealer shall take a physical inventory of fuel on hand on the first or last day of each month and shall have the record of that inventory and of all other matters enumerated in this section available at all times for inspection by the director. Upon demand by the director each supplier, permissive supplier, importer, exporter, blender, distributor, liquefied petroleum gas dealer, and aviation fuel dealer shall furnish a statement under oath reflecting the contents of any records required to be kept by this section.

c. Each supplier, permissive supplier, importer, exporter, blender, distributor, liquefied petroleum gas dealer, or aviation fuel dealer shall, on or before the 22nd day of each month, render a report to the director, in the form and manner prescribed by the director, stating the number of gallons of fuel sold or used in this State by that person during the preceding calendar month. Upon application to the director, the period within which a report must be made may be extended up to an additional 10 days, if deemed advisable by the director. A tax at the rate imposed by section 3 of P.L.2010, c.22 (C.54:39-103) shall be paid by each supplier, permissive supplier, importer, exporter, blender, distributor, liquefied petroleum gas dealer, or aviation fuel dealer, on the number of gallons of fuel sold or used in this State by that person during the preceding calendar month and not exempted from taxation, the payment to accompany the filing of the report. The report shall contain further information as the director may prescribe or determine.

d. If a supplier, permissive supplier, importer, exporter, blender, distributor, liquefied petroleum gas dealer, or aviation fuel dealer shall fail, neglect or refuse to file the report within the time prescribed by this section, the director shall note that failure, neglect or refusal upon the director's records, and may estimate the sales, distribution and use of that supplier, permissive supplier, importer, exporter, blender, distributor, liquefied petroleum gas dealer, or aviation fuel dealer, assessing the tax thereon, and adding to that assessed tax a penalty of 20% thereof for failure, neglect or refusal to report, and that estimate shall be prima facie evidence of the true amount of tax due to the director from the supplier, permissive supplier, importer, exporter, blender, distributor, liquefied petroleum gas dealer, or aviation fuel dealer; provided that if a good and sufficient cause or reason is shown for a delinquency, the director may remit or waive the payment of the whole or any part of the penalty, as allowed by the State Uniform Tax Procedure Law, R.S.54:48-1 et seq. Reports required by this section, exclusive of schedules, itemized statements and other supporting evidence annexed to those reports, shall at all reasonable times be open to the public, notwithstanding any provision of R.S.54:50-8 to the contrary.

5. Section 6 of P.L.2010, c.22 (C.54:39-106) is amended to read as follows:

C.54:39-106 Report to director.

6. a. Each supplier, permissive supplier, importer, exporter, blender, distributor, liquefied petroleum gas dealer, or aviation fuel dealer who sells aviation fuel for distribution to general aviation airports shall, on or before

the 22nd day of each month, render a report to the director, stating the number of gallons of aviation fuel, sold in this State by that person for distribution to general aviation airports during the preceding month. In addition to the provisions of section 4 of P.L.2010, c.22 (C.54:39-104) and except as otherwise provided in section 12 of P.L.2010, c.22 (C.54:39-112), the tax of 2 cents per gallon as imposed by subsection b. of section 3 of P.L.2010, c.22 (C.54:39-103) on each gallon of aviation fuel so reported shall be paid by each supplier, permissive supplier, importer, exporter, blender, distributor, liquefied petroleum gas dealer, or aviation fuel dealer, the payment to accompany the filing of the report.

b. Each supplier, permissive supplier, importer, exporter, blender, distributor, liquefied petroleum gas dealer, or aviation fuel dealer who sells aviation grade kerosene for distribution to general aviation airports shall, on or before the 22nd day of each month, render a report to the director, stating the number of gallons of aviation grade kerosene sold by that person for distribution to general aviation airports during the preceding month. Except as otherwise provided by section 12 of P.L.2010, c.22 (C.54:39-112), the tax of 2 cents per gallon imposed under subsection b. of section 3 of P.L.2010, c.22 (C.54:39-103) on each gallon of aviation grade kerosene so reported shall be paid by each supplier, permissive supplier, importer, exporter, blender, distributor, liquefied petroleum gas dealer, or aviation fuel dealer, the payment to accompany the filing of the report.

c. If a supplier, permissive supplier, importer, exporter, blender, distributor, liquefied petroleum gas dealer, or aviation fuel dealer shall fail, neglect or refuse to file the report within the time prescribed by this section, the director shall note such failure, neglect or refusal upon the director's records, and may estimate the sales, distribution and use of that supplier, permissive supplier, importer, exporter, blender, distributor, liquefied petroleum gas dealer, or aviation fuel dealer, assessing the tax thereon, and adding to that assessed tax a penalty of 20% thereof for failure, neglect or refusal to report, and that estimate shall be prima facie evidence of the true amount of tax due to the director from the supplier, permissive supplier, importer, exporter, blender, distributor, liquefied petroleum gas dealer, or aviation fuel dealer provided that if a good and sufficient cause or reason is shown for a delinquency, the director may remit or waive the payment of the whole or any part of the penalty, as allowed by the State Uniform Tax Procedure Law, R.S.54:48-1 et seq. Reports required by this section, exclusive of schedules, itemized statements and other supporting evidence annexed to those reports, shall at all reasonable times be open to the public, notwithstanding any provision of R.S.54:50-8 to the contrary.

d. The monthly filing provisions of this section notwithstanding, the director may require payments of tax liability at intervals and based upon those classifications as the director may prescribe by regulation. In prescribing those other periods to be covered by the return or intervals or classifications for payment of tax liability, the director may take into account the dollar volume of tax involved and the need for assuring the prompt and orderly collection of the taxes imposed.

e. The refund provisions of section 12 of P.L.2010, c.22 (C.54:39-112) shall not apply to amounts paid pursuant to this section. However, a user of general aviation aircraft shall be allowed a refund or credit of the tax imposed by subsection a. of section 3 of P.L.2010, c.22 (C.54:39-103), provided the user complies with the provisions of section 12 of P.L.2010, c.22 (C.54:39-112).

6. Section 7 of P.L.2010, c.22 (C.54:39-107) is amended to read as follows:

C.54:39-107 Transporter reports, registration of fuel conveyance.

7. a. (1) Transporter reports shall cover monthly periods and shall be submitted within 30 days after the close of the month covered by the reports. The transporter reports shall show all quantities of each type of motor fuel delivered at points in the State or from points inside the State to points outside of the State during the month, giving the name and address of the consignor, the name and address of the consignee, place at which delivered, the date of shipment, the date of delivery, the numbers and initials of the car if shipped by rail, the name of the boat or barge, if shipped by water, or if delivery by other means, the method of delivery and the number of gallons in each shipment.

(2) The director shall have the right at any time during normal business hours to inspect the books of a transporter to determine if the requirements of this section are being properly complied with.

(3) Each person engaged in the business of hauling, transporting or delivering fuel shall, before entering upon the highways or waterways of this State with any conveyance used therein, apply to the director for the registration of a fuel conveyance on forms as the director shall prescribe. Upon receipt of an application, a license certificate and license plate shall be issued for each conveyance which shall show the license number assigned and which shall be displayed on the conveyance at all times in such a manner as the director may regulate. An annual license fee of $50 shall be paid for the licensing of each such conveyance. Nothing in this section

shall in any manner relieve or discharge persons obtaining licenses pursuant to this section from complying with provisions of other laws.

(4) A person coming into this State in a motor vehicle may transport in the vehicle fuel supply tank, for the propulsion thereof, fuel without paying the tax, securing the license, or making any report required under P.L.2010, c.22 (C.54:39-101 et al.).

b. (1) The driver of a conveyance shall have in the driver's possession at all times while hauling, distributing or transporting fuel, a delivery ticket or other form approved by the director, which shall show the true names of the consignor and consignee and such information as the director may prescribe by regulation. The director or any police officer may stop a conveyance to determine if the provisions of this section are being complied with.

(2) The person in charge of any barge, tanker or other vessel in which fuel is being transported, or of a tank truck, truck tractor, semitrailer, trailer, or other vehicle used in transporting fuels other than fuel being transported for use in operating the engine which propels the vessel or vehicle, shall have in that person's possession an invoice, bill of sale or other evidence showing the name and address of the consignor or person from whom that fuel was received by the person in charge and the name and address of the consignee or person to whom the person in charge is to make delivery of the fuel, together with the number of gallons to be delivered to that person, and shall at the request of the director produce that invoice, bill of sale or other record evidence for inspection.

c. The license certificates issued for the operation over the highways or waterways of this State of any conveyance used for the transportation or hauling of fuels may be suspended or revoked upon reasonable grounds by the director in the same manner as other licenses may be suspended or revoked by the director under the provisions of P.L.2010, c.22 (C.54:39-101 et al.).

7. Section 8 of P.L.2010, c.22 (C.54:39-108) is amended to read as follows:

C.54:39-108 Licenses required for retail sale of fuel.

8. a. A retail dealer, an aviation fuel dealer and a liquefied petroleum gas dealer shall, before engaging in the retail sale of fuel, apply to the director for a license for each establishment operated by that person. A license fee of $150 shall be paid for the issuance of a retail license, which shall be valid for a three-year period commencing on April 1 and expiring on March 31 of the third succeeding year, and the director shall supply a license plate or suitable substitute containing the number assigned to the licensee, and

words denoting whether the license is a retail dealer's license, an aviation fuel dealer's license or a liquefied petroleum gas dealer's license, which the licensee shall publicly display at each establishment in the manner as the director shall prescribe. No applicant shall continue in business after the end of the 14th day following the date of application unless the license applied for has been procured and is publicly displayed at the establishment being operated.

b. A retail dealer, liquefied petroleum gas dealer and an aviation fuel dealer shall keep a daily record showing the total amount of fuels sold on each business day, daily dispensing pump totalizer readings, and monthly physical inventories, such records to be preserved for a period of a minimum of four years, and to be open for inspection by the director at all times.

8. Section 9 of P.L.2010, c.22 (C.54:39-109) is amended to read as follows:

C.54:39-109 Terminal operator's license required, report.

9. a. A person shall, before engaging in the business of a terminal operator, obtain a terminal operator's license from the director, for which a license fee of $450 shall be paid.

b. A terminal operator shall, on or before the 25th day of each month, render a report to the director, in such form as the director may prescribe, stating the quantities of fuel received at the terminal in the State or sold from it during the preceding month.

At the discretion of the director, a terminal operator's report as submitted under the federal ExSTARS reporting system may be accepted in lieu of the terminal operator's report required under this subsection.

c. The director shall have the right at any time during normal business hours to inspect the books of a terminal operator to determine if the requirements of this act are being properly observed.

d. The director may require those returns to be filed, in the form and manner, and at the intervals, that the director may prescribe by regulation.

9. Section 10 of P.L.2010, c.22 (C.54:39-110) is amended to read as follows:

C.54:39-110 Fuel presumed to be used, consumed on State highways to propel motor vehicles.

10. a. Except as otherwise provided in this act, all fuel delivered in this State in a vehicle fuel supply tank is presumed to be used or consumed on

the highways in this State in producing or generating power for propelling motor vehicles.

b. Subject to proof of exemption pursuant to section 12 of P.L.2010, c.22 (C.54:39-112), all motor fuel is presumed to be used or consumed on the highways of this State to propel motor vehicles if the fuel is:

(1) removed from a terminal in this State; or

(2) imported into this State other than by a bulk transfer within the terminal transfer system; or

(3) delivered into a consumer's bulk storage tank from which motor vehicles can be fueled.

10. Section 11 of P.L.2010, c.22 (C.54:39-111) is amended to read as follows:

C.54:39-111 Excise tax imposed, determination of liability.

11. a. An excise tax at the applicable rate determined pursuant to section 3 of P.L.2010, c.22 (C.54:39-103) is imposed for a calendar year on unaccounted-for losses at a terminal that exceed one-half of one percent of the total number of net gallons removed from the terminal during the calendar year by a system transfer or at a rack. To determine liability for the excise tax, the terminal operator shall determine the terminal loss as the difference between:

(1) the total amount of all inventory at the applicable terminal at the beginning of the year plus the total amount of all fuel received at the terminal during the year; and

(2) the total amount of all inventory at the terminal at the end of the year plus the total amount removed from the terminal during the year.

b. The terminal operator whose fuel is unaccounted for is liable for the tax imposed by this section. Fuel received by a terminal operator and not shown on a report as having been removed from the terminal is presumed to be unaccounted for if not part of the physical inventory of the terminal. A terminal operator may provide documentation to substantiate otherwise unaccountable losses and at the discretion of the director may be relieved of all or a portion of the tax liability.

c. The tax at the applicable rate determined pursuant to section 3 of P.L.2010, c.22 (C.54:39-103) shall be reported, and the tax shall be due and payable, on or before the 22nd day of the second month following the end of the year.

11. Section 12 of P.L.2010, c.22 (C.54:39-112) is amended to read as follows:

C.54:39-112 Exemptions from tax.

12. a. Fuel used for the following purposes is exempt from the tax imposed by the "Motor Fuel Tax Act," P.L.2010, c.22 (C.54:39-101 et seq.), and a refund of the tax imposed by subsection a. of section 3 of P.L.2010, c.22 (C.54:39-103) may be claimed by the consumer providing proof the tax has been paid and no refund has been previously issued:

(1) Autobuses while being operated over the highways of this State in those municipalities to which the operator has paid a monthly franchise tax for the use of the streets therein under the provisions of R.S.48:16-25 and autobuses while being operated over the highways of this State in a regular route bus operation as defined in R.S.48:4-1 and under operating authority conferred pursuant to R.S.48:4-3, or while providing bus service under a contract with the New Jersey Transit Corporation or under a contract with a county for special or rural transportation bus service subject to the jurisdiction of the New Jersey Transit Corporation pursuant to P.L.1979, c.150 (C.27:25-1 et seq.), and autobuses providing commuter bus service which receive or discharge passengers in New Jersey. For the purpose of this paragraph "commuter bus service" means regularly scheduled passenger service provided by motor vehicles whether within or across the geographical boundaries of New Jersey and utilized by passengers using reduced fare, multiple ride or commutation tickets and shall not include charter bus operations for the transportation of enrolled children and adults referred to in subsection c. of R.S.48:4-1 and "regular route service" does not mean a regular route in the nature of special bus operation or a casino bus operation,

(2) agricultural tractors not operated on a public highway,

(3) farm machinery,

(4) aircraft,

(5) ambulances,

(6) rural free delivery carriers in the dispatch of their official business,

(7) vehicles that run only on rails or tracks, and such vehicles as run in substitution therefor,

(8) highway motor vehicles that are operated exclusively on private property,

(9) motor boats or motor vessels used exclusively for or in the propagation, planting, preservation and gathering of oysters and clams in the tidal waters of this State,

(10) motor boats or motor vessels used exclusively for commercial fishing,

(11) motor boats or motor vessels, while being used for hire for fishing parties or being used for sightseeing or excursion parties,

(12) cleaning,

(13) fire engines and fire-fighting apparatus,

(14) stationary machinery and vehicles or implements not designed for the use of transporting persons or property on the public highways,

(15) heating and lighting devices,

(16) motor boats or motor vessels used exclusively for Sea Scout training by a duly chartered unit of the Boy Scouts of America,

(17) emergency vehicles used exclusively by volunteer first-aid or rescue squads, and

(18) three cents per gallon, the difference between the rate of tax on diesel fuel and the rate of tax on gasoline, for diesel fuel used by passenger automobiles and motor vehicles of less than 5,000 pounds gross weight.

b. Subject to the procedural requirements and conditions set out in the "Motor Fuel Tax Act," P.L.2010, c.22 (C.54:39-101 et seq.), the following uses are exempt from the tax imposed by section 3 of P.L.2010, c.22 (C.54:39-103) on fuel, and a deduction or a refund may be claimed by the supplier, permissive supplier or licensed distributor:

(1) fuel for which proof of export, satisfactory to the director, is available and is either:

(a) removed by a licensed supplier for immediate export to a state in which the supplier has a valid license;

(b) removed from a terminal by a licensed distributor for immediate export as evidenced by the terminal issued shipping papers; or

(c) acquired by a licensed distributor and which the tax imposed by P.L.2010, c.22 (C.54:39-101 et al.) has previously been paid or accrued either as a result of being stored outside of the terminal transfer system immediately prior to loading or as a diversion across state boundaries properly reported in conformity with P.L.2010, c.22 (C.54:39-101 et al.) and was subsequently exported from this State on behalf of the distributor.

The exemption pursuant to subparagraphs (a) and (b) of this paragraph shall be claimed by a deduction on the report of the supplier which is otherwise responsible for remitting the tax upon removal of the product from a terminal or refinery in this State. The exemption pursuant to subparagraph (c) of this paragraph shall be claimed by the distributor, upon a refund application made to the director within six months of the licensed distributor's acquisition of the fuel;

(2) undyed kerosene sold to a licensed ultimate vendor - blocked pumps; if the licensed ultimate vendor - blocked pumps does not sell the kerosene through dispensers that have been designed and constructed to prevent delivery directly from the dispenser into a motor vehicle fuel sup-

ply tank, the ultimate vendor - blocked pumps shall be responsible for the tax imposed by section 3 of P.L.2010, c.22 (C.54:39-103) at the diesel fuel rate. Exempt use of undyed kerosene shall be governed by rules and regulations of the director. If rules or regulations are not promulgated by the director, then the exempt use of undyed kerosene shall be governed by rules and regulations of the Internal Revenue Service. An ultimate vendor-blocked pumps who obtained undyed kerosene upon which the tax levied by section 3 of P.L.2010, c.22 (C.54:39-103) had been paid and makes sales qualifying pursuant to this subsection may apply for a refund of the tax pursuant to an application, as provided by section 14 of P.L.2010, c.22 (C.54:39-114), to the director provided the ultimate vendor-blocked pumps did not charge that tax to the consumer;

(3) fuel sold to the United States or any agency or instrumentality thereof, and to the State of New Jersey and its political subdivisions, departments and agencies;

(4) aviation fuel sold to a licensed aviation fuel dealer;

(5) liquefied petroleum gas except when delivered to the tank of a highway vehicle;

(6) motor fuel on which tax has been paid under this act that is later contaminated in a manner making it unsuitable for taxable use. This credit or refund is limited to the remaining portion of taxed fuel in the contaminated mixture and is conditioned upon submitting to the director adequate documentation that the contaminated mixture was subsequently used in an exempt manner;

(7) fuel on which tax has been paid pursuant to P.L.2010, c.22 (C.54:39-101 et al.) that is either subsequently delivered back into the terminal transfer system for further distribution or delivered to a refinery for further processing;

(8) fuel on which tax has been previously imposed and paid pursuant to section 3 of P.L.2010, c.22 (C.54:39-103) and which is either subsequently exported, sold or distributed in this State in a manner which would result in a second tax being owed. If there is a second taxable distribution or sale, the party responsible for remittance of the second tax shall be the party eligible for claiming the refund or deduction;

(9) Fuel grade alcohol or biodiesel when sold to a licensed supplier and delivered to a qualified terminal.

12. Section 13 of P.L.2010, c.22 (C.54:39-113) is amended to read as follows:

C.54:39-113 Tax exemption for certain sales; documentation from seller required.

13. The exemption under section 12 of P.L.2010, c.22 (C.54:39-112) for sales of fuel sold for use by the United States or any agency or instrumentality thereof and fuel sold for use by the Government of this State, or of any political subdivision of this State or to any department or agency of any of those governments for official use of those governments in motor vehicles, motor boats, or other implements owned or leased by this State or any political subdivision or agency thereof, or to fuels sold at retail to diplomatic missions and diplomatic personnel under a program administered by the director and predicated upon the United States Department of State, Office of Foreign Missions (or its successor office), national tax exemption program shall be claimed as follows:

a. The seller shall obtain from the purchasing entity a certificate in such form as the director may by regulation prescribe signed by the purchasing entity listed in this section setting forth:

(1) The name and address of the purchasing entity;

(2) The quantity of each type of fuel, or if the certificate is for all the fuel purchased by the purchasing entity, the certificate shall be for a period as the director may by regulation prescribe, but not to exceed four years;

(3) The exempt use of the fuel;

(4) The name and address of the seller from whom the fuel was purchased;

(5) The federal employer identification number of the purchasing entity; and

(6) A statement that the purchasing entity understands that the fraudulent use of the certificate to obtain fuel without paying the tax levied pursuant to P.L.2010, c.22 (C.54:39-101 et al.) shall result in the purchaser paying the tax, with penalties and interest, as well as such other penalties provided by P.L.2010, c.22 (C.54:39-101 et al.);

b. The seller, having obtained from the purchasing entity the certificate, which the seller shall retain for a period of not less than four years, shall be eligible for a deduction or to claim a refund of any taxes paid pursuant to P.L.2010, c.22 (C.54:39-101 et al.); and

c. If the sale of fuel to the purchasing entity occurs at a fixed retail pump available to the general public, the seller, having made the sale to the purchasing entity without the tax, may apply for a refund from the director by submitting the application and supporting documentation as the director shall reasonably prescribe. However, if the purchase is charged to a fleet or government fueling credit card, or to an oil company credit card issued to the purchasing entity, the party extending the credit shall be deemed the

seller and may bill the purchasing entity without the tax and seek a refund, or use the provisions of this section.

13. Section 14 of P.L.2010, c.22 (C.54:39-114) is amended to read as follows:

C.54:39-114 Procedure for claiming a refund.

14. a. To claim a refund in accordance with section 12 of P.L.2010, c.22 (C.54:39-112), a person shall present to the director a statement containing a written verification that the claim is made under penalties of perjury and listing the total amount of fuel purchased and used for exempt purposes. A claim shall not be transferred or assigned and shall be filed not more than four years after the date the fuel was imported, removed or sold if the claimant is a supplier, importer, exporter or distributor. If the claim is filed by the consumer, the consumer shall file the claim within six months of the date of purchase. The claim statement shall be supported by the original sales slip, invoice or other documentation as approved by the director and shall include the following information:

(1) Date of sale;

(2) Name and address of purchaser;

(3) Name and address of seller;

(4) Number of gallons purchased and base price per gallon;

(5) Number of gallons purchased and charged New Jersey fuel tax, as a separate item; and

(6) Number of gallons purchased and charged sales tax, if applicable, as a separate item.

b. If the original sales slip or invoice is lost or destroyed, a statement to that effect shall accompany the claim for refund, and the claim statement shall also set forth the serial number of the invoice. If the director finds the claim is otherwise regular, the director may allow such claim for refund.

c. The director may make any investigation necessary before refunding the fuel tax to a person and may investigate a refund after the refund has been issued and within the period in which a deficiency may be assessed pursuant to R.S.54:49-6.

d. In the case of a refund payable to a supplier pursuant to section 12 of P.L.2010, c.22 (C.54:39-112), the supplier may claim a credit in lieu of the refund for a period not to exceed four years from the date the fuel was imported, removed or sold.

e. To establish the validity of claims filed, the claimant shall maintain and preserve for a period of at least four years such fuel consumption re-

cords as may be prescribed by the director. The director may require a claimant to furnish such additional proof of the validity of a claim as the director may determine, and may examine the books and records of the claimant for such purpose. Failure of the claimant to maintain and preserve such records, furnish such additional proof or to accede to the demand for such examination by the director shall constitute a waiver of all rights to the claim or claims questioned and such subsequent claims as the director may determine.

f. Motor fuel tax that has been paid more than once with respect to the same gallon of fuel shall be refunded by the director to the person who last paid the tax after the subsequent taxable event upon submitting proof satisfactory to the director.

g. Fuel tax that has otherwise been erroneously paid by a person shall be refunded by the director upon proof shown satisfactory to the director.

h. A refund granted pursuant to section 12 of P.L.2010, c.22 (C.54:39-112) to a person for fuel used in aircraft, shall be paid from the moneys deposited in the Airport Safety Fund established by section 4 of P.L.1983, c.264 (C.6:1-92). Those refunds shall be granted on an annual basis.

i. Upon approval by the director of an application, a warrant shall be drawn upon the State Treasurer for the amount of the claim in favor of the claimant and the warrant shall be paid from the tax collected on fuel.

j. If the State or any political subdivision of the State heretofore shall have been reimbursed and repaid for the tax paid on fuel used for operating or propelling motor vehicles, motor boats or other implements, whether owned or leased by the State or any political subdivision of the State, the State or that political subdivision shall be entitled to retain such reimbursement and repayment, and further claim therefor shall not be required.

k. If fuel is sold to a person who claims to be allowed a refund of the tax imposed by the "Motor Fuel Tax Act," P.L.2010, c.22 (C.54:39-101 et seq.) the seller of that fuel shall furnish the purchaser with an invoice, or invoices, in conformity with the requirements of this section.

14. Section 16 of P.L.2010, c.22 (C.54:39-116) is amended to read as follows:

C.54:39-116 Responsibility for precollection for fuel imported from another state.

16. Except as otherwise provided by the "Motor Fuel Tax Act," P.L.2010, c.22 (C.54:39-101 et seq.), the tax imposed by section 3 of P.L.2010, c.22 (C.54:39-103) on fuel imported from another state shall be precollected on behalf of the consumers and remitted to the director by the:

a. Importer who has imported the nonexempt fuel. The precollection shall be made and remitted when the tax return is due. If the importer was not subject to a precollection agreement with the supplier or permissive supplier, the precollection shall be remitted in the manner specified by the director; or

b. Importer who has imported the nonexempt fuel which is subject to a precollection agreement with the supplier or permissive supplier. If the importer is a licensed distributor, the precollection shall be made and remitted to the supplier or permissive supplier no later than two business days prior to the date on which the tax is required to be remitted by the supplier or permissive supplier pursuant to section 19 of P.L.2010, c.22 (C.54:39-119). The importer shall remit the tax to the supplier or permissive supplier, acting as trustee who shall remit to the director on behalf of the distributor under the same terms as a supplier payment pursuant to section 19 of P.L.2010, c.22 (C.54:39-119); or

c. Importer at the time the fuel is entered into this State. However, if the supplier of the fuel, as shown on the records of the terminal operator, has made a blanket election to precollect tax in accordance with section 18 of P.L.2010, c.22 (C.54:39-118), then the importer shall remit the tax to the supplier, acting as trustee, who shall remit to the director on behalf of the importer under the same terms as a supplier payment pursuant to section 19 of P.L.2010, c.22 (C.54:39-119), and no import verification number shall be required.

15. Section 19 of P.L.2010, c.22 (C.54:39-119) is amended to read as follows:

C.54:39-119 Precollection remittance to State by person removing fuel from facility.

19. a. The tax imposed by section 3 of P.L.2010, c.22 (C.54:39-103), measured by fuel removed from a terminal or refinery in this State, other than a terminal bulk transfer, shall be precollected and remitted on behalf of the consumers to the State by the person removing the fuel from the facility through the supplier or permissive supplier of the fuel, as shown in the records of the terminal operator, acting as a trustee.

b. The supplier, permissive supplier and each reseller shall list the amount of tax as a separate line item on all invoices or billings.

c. All tax to be paid by a supplier or permissive supplier with respect to gallons removed on the account of the supplier or permissive supplier during a calendar month shall be due and payable on or before the 22nd day

of the following month unless that day falls upon a weekend or State holiday in which case the liability shall be due the next succeeding business day.

d. A supplier or permissive supplier shall remit any late taxes remitted to the supplier or permissive supplier by a licensed distributor and shall notify the director within the twenty business day limit provided by section 24 of P.L.2010, c.22 (C.54:39-124) of any late remittances if that supplier or permissive supplier has previously given notice to the director that the tax amount was not received pursuant to section 24 of P.L.2010, c.22 (C.54:39-124).

e. The remittance of all amounts of tax due shall be paid on the basis of the amount invoiced.

16. Section 21 of P.L.2010, c.22 (C.54:39-121) is amended to read as follows:

C.54:39-121 Election as to timing of remittance by licensed distributor.

21. A licensed distributor who removes fuel from a terminal or refinery who remits the tax through the supplier or permissive supplier, acting as a trustee, may make an election as to the timing of the remittance. At the election of a licensed distributor, which notice shall be evidenced by a written statement from the director as to the purchaser's eligibility status as determined pursuant to section 22 of P.L.2010, c.22 (C.54:39-122), the supplier or permissive supplier shall not require a payment of motor fuel tax on fuel transportation vehicle loads from the licensed distributor sooner than two business days prior to the date on which the tax is required to be remitted by the supplier pursuant to section 19 of P.L.2010, c.22 (C.54:39-119). This election shall be subject to a condition that the remittances by the licensed distributor of tax due the supplier or permissive supplier shall be paid by electronic funds transfer.

17. Section 22 of P.L.2010, c.22 (C.54:39-122) is amended to read as follows:

C.54:39-122 Evidence presented by purchaser.

22. a. A purchaser desiring to make an election under section 21 of P.L.2010, c.22 (C.54:39-121) shall present evidence to the director that:

(1) The applicant was a licensee in good standing under R.S.54:39-1 et seq. as to which the applicant remitted tax to the director; or

(2) The applicant meets the financial responsibility and bonding requirements imposed by P.L.2010, c.22 (C.54:39-101 et al.), which bond shall conform to the specific requirements of this section.

b. The director shall require a purchaser who pays the tax to a supplier to file with the director a surety bond payable to the State, upon which the purchaser is the obligor, or other financial security, in an amount satisfactory to the director, calculated based on three times the potential monthly tax payments for gasoline and diesel fuel separately. The director shall require that the bond indemnify the director against the tax credits claimed by the suppliers pursuant to section 23 of P.L.2010, c.22 (C.54:39-123).

c. A purchaser desiring to make an election in accordance with section 21 of P.L.2010, c.22 (C.54:39-121) shall not be subject to the provisions of subsection b. of this section if the purchaser holds a valid distributor's license and meets the bonding requirements according to the law on the day prior to January 1, 2011. On and after January 1, 2011 each purchaser holding a valid distributor's license issued prior to January 1, 2011, may elect to become an eligible purchaser. An eligible purchaser shall have the option to provide bonding as provided for distributors in section 34 of P.L.2010, c.22 (C.54:39-134).

d. The director may revoke a purchaser's eligibility and election to defer fuel tax remittances for the purchaser's failure to make timely tax-deferred payment of tax to a supplier pursuant to section 21 of P.L.2010, c.22 (C.54:39-121), after five days' notice of and hearing on such proposed revocation or suspension conducted pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). The revocation shall be implemented by sending written notice to all suppliers and publishing notice of the revocation on the website of the Division of Taxation in the Department of the Treasury. As a condition of restoring a purchaser's eligibility, the director may require further assurance of the financial responsibility of the purchaser, including an increase in the amount of the bond or any other action that the director may reasonably require to ensure remittance of the tax imposed by P.L.2010, c.22 (C.54:39-101 et al.).

An applicant may request a hearing on the denial of an application pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

e. The director shall publish a list of licensed distributors and make it available to all suppliers on at least a quarterly basis. The director may, at the director's discretion, provide more timely publication via the website of the Division of Taxation in the Department of the Treasury.

18. Section 23 of P.L.2010, c.22 (C.54:39-123) is amended to read as follows:

C.54:39-123 Fiduciary duty of supplier to remit tax.

23. A supplier has a fiduciary duty to remit to the director the amount of tax imposed by P.L.2010, c.22 (C.54:39-101 et al.) paid to the supplier, in its role as a trustee, by any purchaser, importer, exporter or licensed distributor. In computing the amount of tax due, the supplier shall be allowed a credit against the tax payable in the amount of tax paid by the supplier that was accrued and remitted to a state, but not received from a licensed distributor. The director may recover any unpaid tax directly from the purchaser, importer, exporter or licensed distributor.

19. Section 28 of P.L.2010, c.22 (C.54:39-128) is amended to read as follows:

C.54:39-128 Application for license; fee, term.

28. a. An applicant for a supplier's, distributor's or terminal operator's license issued pursuant to P.L.2010, c.22 (C.54:39-101 et al.) shall apply in the form and manner as the director shall prescribe by regulation. The application shall be subscribed to by the applicant and shall provide such information as the director may require, including the applicant's federal identification number.

b. A license issued pursuant to P.L.2010, c.22 (C.54:39-101 et al.) shall be issued for a three-year period, or the unexpired portion thereof, commencing on April 1 and ending on the third succeeding March 31 and shall be void thereafter, and that license may be suspended, revoked or cancelled by the director. A license fee of $450 shall be paid for the issuance of that license.

c. The director shall investigate each applicant for a license issued pursuant to P.L.2010, c.22 (C.54:39-101 et al.). A license shall not be issued if the director determines that any one of the following conditions exists:

(1) The application is not filed in good faith;

(2) The applicant is not the real party in interest;

(3) The license of the real party in interest has been revoked for cause;

(4) The applicant managed, operated, owned or controlled, directly or indirectly, a business which held a license issued pursuant to P.L.2010, c.22 (C.54:39-101 et al.) which business is indebted to this State for any tax, penalties or interest accruing hereunder;

(5) The applicant is managed, operated or controlled, directly or indirectly, by a person who held a license issued pursuant to P.L.2010, c.22

(C.54:39-101 et al.) who is indebted to this State for any tax, penalties, or interest accruing hereunder;

(6) The applicant is managed, operated, owned, or controlled, directly or indirectly, by a person who managed, operated, owned or controlled, directly or indirectly, a business that held a license issued pursuant to P.L.2010, c.22 (C.54:39-101 et al.) and which is indebted to this State for any tax, penalties, or interest accruing hereunder;

(7) Any good cause as the director may determine; or

(8) With respect to a distributor's license, the applicant intending to export is not licensed in the intended specific state or states of destination.

d. A person shall not be entitled to hold a license if it shall appear to the director that an officer, director or employee of that person has been convicted of violating any of the provisions of P.L.2010, c.22 (C.54:39-101 et al.) or of R.S.54:39-1 et seq. or if a license issued pursuant to the provisions of P.L.2010, c.22 (C.54:39-101 et al.) or of R.S.54:39-1 et seq. and held by an officer, director or employee of that person has been revoked by the director for cause.

e. Applicants, including corporate officers, partners, members and individuals, for a license issued by the director may be required to submit their fingerprints to the director at the time of application. Officers of a "publicly traded corporation," as that term is defined by section 39 of P.L.1977, c.110 (C.5:12-39), and its subsidiaries shall be exempt from this fingerprinting requirement. Persons, other than applicants for a distributor's license, who possessed licenses issued pursuant to R.S.54:39-1 et seq. continuously for three years prior to January 1, 2011, shall also be exempt from this provision. Fingerprints required by this section shall be submitted on forms prescribed by the director. The director may forward to the Federal Bureau of Investigation or any other agency for processing all fingerprints submitted by license applicants. The receiving agency shall issue its findings to the director. The director or another State agency may maintain a file of fingerprints.

20. Section 33 of P.L.2010, c.22 (C.54:39-133) is amended to read as follows:

C.54:39-133 Distributor's license.

33. a. A person other than a supplier desiring to export fuel to a destination outside of this State shall first obtain a distributor's license. Issuance of a distributor's license shall be conditioned upon the applicant holding an appropriate license to import the fuel into the destination state or states.

b. A person desiring to deliver dyed fuel or undyed fuel into this State on the person's own behalf, for the person's own account, or for resale to a purchaser in this State, from another state in a fuel transportation vehicle or in a pipeline or barge shipment into storage facilities other than a qualified terminal, shall first make application for and obtain a distributor's license.

c. A person desiring to import fuel to a destination in this State from another state, and who has not entered into an agreement to remit the tax imposed by section 3 of P.L.2010, c.22 (C.54:39-103) to the supplier or permissive supplier as trustee with respect to the imports shall do the following:

(1) apply for and obtain a distributor's license; and

(2) comply with the payment requirements of section 16 of P.L.2010, c.22 (C.54:39-116).

d. A person blending any motor fuel for sale shall apply for and obtain a distributor's license.

e. A distributor's license is a prerequisite to making the election permitted in section 21 of P.L.2010, c.22 (C.54:39-121).

21. Section 35 of P.L.2010, c.22 (C.54:39-135) is amended to read as follows:

C.54:39-135 Issuance of license.

35. a. If the license applicant and bond are approved, the director shall issue a license for the applicant's principal place of business and the applicant shall make copies for each other business location.

b. A license is valid until suspended, revoked for cause, cancelled or the license expires.

c. A license is not transferable to another person or to another place of business. For purposes of this section, a transfer of a majority interest in a business association, including corporations, partnerships, trusts, joint ventures and any other business association, shall be deemed to be a transfer of any license held by the business association to another person. Any change in ownership of a business association, other than a "publicly traded corporation," as that term is defined by section 39 of P.L.1977, c.110 (C.5:12-39), shall be reported to the director.

d. A license shall be preserved and conspicuously displayed at the principal place of business for which it is issued.

e. A person licensed under P.L.2010, c.22 (C.54:39-101 et al.) shall display the person's conveyance number on the back of any conveyance of fuel.

f. Upon the discontinuance, sale, transfer or change of ownership of the business, the license shall be immediately surrendered to the director. Any relocation of the business shall be immediately reported to the director.

g. If a person licensed to do business pursuant to P.L.2010, c.22 (C.54:39-101 et al.) discontinues, sells, or transfers the business, the licensee shall immediately notify the director in writing of the discontinuance, sale, or transfer. The notice shall give the date of discontinuance, sale, or transfer and if the business is sold or transferred, the name and address of the purchaser or transferee. The licensee shall be liable for all taxes, interest, and penalties that accrue or may be owing and any criminal liability for misuse of the license that occurs prior to cancellation of the license.

h. The director shall publish without charge a list of updates of all licensees, by category.

i. A licensee shall maintain and keep for a minimum of four years records of all transactions by which fuel is received, used, sold, delivered, or otherwise disposed of, together with invoices, bills of lading, and other pertinent records and papers as may be required by the director for reasonable administration of P.L.2010, c.22 (C.54:39-101 et al.).

22. Section 39 of P.L.2010, c.22 (C.54:39-139) is amended to read as follows:

C.54:39-139 Requirements for transportation of fuel on public highways.

39. a. A person transporting fuel in a fuel transportation vehicle upon the public highways of this State shall:

(1) Carry on board the shipping document issued by the terminal operator or the bulk plant operator of the facility where the fuel was obtained, whether within or without this State. The shipping paper shall set out on its face the state of destination of the fuel transported in the vehicle as represented to the terminal operator at the time the fuel transportation vehicle was loaded;

(2) Show, and permit duplication of, the shipping document by a law enforcement officer or the director, upon request, when transporting, holding or off-loading the fuel described in the shipping document;

(3) Provide a copy of the shipping document to the distributor or other person who controls the facility to which the fuel is delivered; and

(4) Meet such other conditions as the director may require for the enforcement of P.L.2010, c.22 (C.54:39-101 et al.).

b. A person transporting fuel in fuel transportation vehicles upon the public highways of this State shall provide the original or a copy of the

terminal-issued shipping document accompanying the shipment to the operator of the retail outlet, bulk plant or bulk end user bulk storage facility to which delivery of the shipment was made. However, a delivery ticket created by the person transporting the fuel may be provided in lieu of the terminal-issued shipping paper for deliveries into bulk end user bulk storage.

c. The operator of a fuel retail outlet, bulk plant or bulk end user bulk storage facility shall receive, examine, and retain for a period of 30 days at the delivery location the terminal-issued shipping document received from the transporter for every shipment of fuel that is delivered to that location with record retention of the shipping paper for a minimum of four years required off-site. If the delivery location is an unattended location, the operator may retain the shipping documents at the normal billing address of the operator.

d. A retail dealer, liquefied petroleum gas dealer, aviation fuel dealer, bulk plant operator, wholesale distributor or bulk end user shall not knowingly accept delivery of fuel into bulk storage facilities in this State if that delivery is not accompanied by a shipping paper issued by the terminal operator, or bulk plant operator as provided by regulations, that sets out on its face this State as the state of destination of the fuel.

e. A person who knowingly violates or knowingly aids and abets another to violate this section shall be jointly and severally liable for the tax on the fuel transported or delivered.

f. A person owning or operating a motor vehicle in violation of this section and sections 42 and 43 of P.L.2010, c.22 (C.54:39-142 and C.54:39-143) is guilty of a crime of the fourth degree for the first offense. For the second and each subsequent offense, a violator is guilty of a crime of the third degree.

g. The director shall impose a civil penalty of $500 on a person transporting fuel for the first occurrence of transporting fuel without adequate shipping papers annotated as required under this section and sections 42 and 43 of P.L.2010, c.22 (C.54:39-142 and C.54:39-143). Each of that person's subsequent occurrences described in this subsection is subject to a civil penalty of up to $5,000.

23. Section 41 of P.L.2010, c.22 (C.54:39-141) is amended to read as follows:

C.54:39-141 Payment of tax required.

41. a. A person shall not sell, use, deliver, or store in this State, or import for sale, use, delivery or storage in this State, fuel as to which the tax

imposed by section 3 of P.L.2010, c.22 (C.54:39-103) has not been previously paid to or accrued by either a licensed supplier, or permissive supplier, at the time of removal from a terminal, or a licensed distributor provided all the conditions of section 43 of P.L.2010, c.22 (C.54:39-143) applicable to lawful import by the distributor shall have been met.

b. The provisions of subsection a. of this section shall not apply to:

(1) A supplier with respect to fuel held within the terminal transfer system in this State which was manufactured in this State or imported into this State in a bulk transfer;

(2) A consumer with respect to fuel placed in the vehicle fuel supply tank of that person's motor vehicle outside of this State;

(3) Dyed fuel, dyed in accordance with P.L.2010, c.22 (C.54:39-101 et al.);

(4) Fuel in the process of exportation by a supplier or a distributor in accordance with the shipping papers required by section 39 of P.L.2010, c.22 (C.54:39-139) and with a statement meeting the requirements of section 42 of P.L.2010, c.22 (C.54:39-142) shown on the shipping papers;

(5) Kerosene used in aircraft subject to the conditions and exceptions in subsection a. of section 12 of P.L.2010, c.22 (C.54:39-112);

(6) Fuel in possession of a consumer as to which a refund has been issued;

(7) Government and other exempt fuel under paragraphs (3) and (4) of subsection b. of section 12 of P.L.2010, c.22 (C.54:39-112); or

(8) A distributor who has met the conditions of section 21 of P.L.2010, c.22 (C.54:39-121).

24. Section 42 of P.L.2010, c.22 (C.54:39-142) is amended to read as follows:

C.54:39-142 Requirements for operation of fuel transportation vehicle.

42. a. Except as provided in subsection c. of this section, a person shall not operate a fuel transportation vehicle that is engaged in the shipment of fuel on the public highways of this State without having on board a terminal-issued shipping paper bearing, in addition to the requirements of subsection a. of section 38 of P.L.2010, c.22 (C.54:39-138), a notation indicating that, with respect to diesel fuel acquired under claim of exempt use, a statement indicating the fuel is "DYED DIESEL FUEL, NONTAXABLE USE ONLY, PENALTY FOR TAXABLE USE" for the load or the appropriate portion of the load. With respect to kerosene acquired under claim of exempt use, a statement shall indicate the fuel is "DYED KEROSENE,

NONTAXABLE USE ONLY, PENALTY FOR TAXABLE USE" for the load or the appropriate portion of the load.

b. A person is in violation of subsection a. of this section upon boarding the vehicle with a shipping paper which does not meet the requirements set forth in this section.

c. (1) The director may in the director's discretion provide an advance notification procedure with respect to documentation for imported fuel as to which the importer is unable to obtain terminal-issued shipping papers which comply with this section.

(2) Compliance with relevant federal standards shall satisfy the requirements of subsection a. of this section.

d. Any person who knowingly violates any part of this section is guilty of a crime of the fourth degree.

e. The director, the Office of Weights and Measures of the Division of Consumer Affairs in the Department of Law and Public Safety, and the Superintendent of State Police and the members of the State Police shall have full authority in enforcing the provisions of this section.

25. Section 43 of P.L.2010, c.22 (C.54:39-143) is amended to read as follows:

C.54:39-143 Conditions for entering onto State highways transporting fuel.

43. a. If a distributor acquires fuel destined for this State which has neither been dyed in accordance with the Internal Revenue Code and the regulations issued thereunder, nor tax paid to or accrued by the supplier at the time of removal from the out-of-State terminal, a licensed distributor and transporter operating on behalf of the importer shall meet all of the following conditions prior to entering fuel onto the highways of this State by loaded fuel transportation vehicle:

(1) The terminal origin and the name and address of the importer shall also be set out prominently on the face of each copy of the terminal-issued shipping paper;

(2) The terminal-issued shipping paper data otherwise required by P.L.2010, c.22 (C.54:39-101 et al.), shall be present; and

(3) All tax imposed by P.L.2010, c.22 (C.54:39-101 et al.) with respect to previously requested import verification number activity on the account of the distributor or the transporter shall be timely precollected or remitted.

b. A person who knowingly violates or knowingly aids and abets another to violate this section is guilty of a crime of the fourth degree, provided that a first offense related to a good faith belief that the distributor

could import under the conditions will be punishable only by a fine not to exceed $1,000.

c. The director, the Office of Weights and Measures of the Division of Consumer Affairs in the Department of Law and Public Safety, and the Superintendent of State Police and the members of the State Police shall have full authority in enforcing the provisions of this section.

26. Section 44 of P.L.2010, c.22 (C.54:39-144) is amended to read as follows:

C.54:39-144 Prohibited use of dyed fuel.

44. a. A person shall not operate or maintain a motor vehicle on any public highway in this State with dyed fuel contained in the vehicle fuel supply tank except for uses of dyed fuel on the highway which are lawful under the federal Internal Revenue Code and the regulations thereunder unless otherwise prohibited by P.L.2010, c.22 (C.54:39-101 et al.).

b. A person shall not sell or hold for sale dyed fuel for any use that the person knows or has reason to know is a taxable use of the dyed fuel.

c. A person shall not use or hold for use any dyed fuel for a taxable use when the person knows or has reason to know that the fuel is dyed fuel.

d. A person shall not willfully, with intent to evade tax, alter or attempt to alter the strength or composition of any dye or marker in any dyed fuel.

e. A person who knowingly violates or knowingly aids and abets another to violate the provisions of this section with the intent to evade the tax imposed by P.L.2010, c.22 (C.54:39-101 et al.) is guilty of a crime of the fourth degree.

f. A person, and an officer, employee, or agent of that person or entity who willfully participates in any act in violation of this section shall be jointly and severally liable with the person for the tax and penalty which shall be the same as imposed pursuant to section 6715 of the federal Internal Revenue Code of 1986 (26 U.S.C. s.6715).

g. A person or business entity, and each officer, employee, or agent of the entity who willfully participates in any act in violation of this section shall be jointly and severally liable with the entity for the tax and penalty, which shall be the same as that imposed pursuant to section 6715 of the federal Internal Revenue Code of 1986 (26 U.S.C. s.6715).

h. The director, the Office of Weights and Measures of the Division of Consumer Affairs in the Department of Law and Public Safety, and the Su-

perintendent of State Police and the members of the State Police shall have full authority in enforcing the provisions of this section.

27. Section 50 of P.L.2010, c.22 is amended to read as follows:

C.54:39-150 Tax on fuel held in storage.

50. a. There is levied a tax on fuel held in storage as of the close of the business day preceding January 1, 2011. For the purpose of this section, "close of the business day" means the time at which the last transaction has occurred for that day. The tax on fuel shall be the tax rate specified by subsection a. of section 3 of P.L.2010, c.22 (C.54:39-103) for the type of fuel, multiplied by the gallons in storage of that type of fuel as of the close of the business day preceding January 1, 2011.

b. Persons in possession of fuel in storage as of the close of the business day immediately preceding January 1, 2011 shall:

(1) take an inventory at the close of the business day immediately preceding January 1, 2011;

(2) report the gallons listed in paragraph (1) of this subsection on forms provided by the director, not later than January 1, 2011; and

(3) Remit the tax levied under this section no later than July 1, 2011.

c. If tax due pursuant to subsection b. of this section is paid to the director on or before January 31, 2011, the person remitting the tax may deduct from that person's tax liability 10% of the tax liability otherwise due.

d. In determining the amount of tax due under this section, a person may exclude the amount of fuel in dead storage in each storage tank. For the purposes of this section, "dead storage" means the amount of fuel that cannot be pumped out of a fuel storage tank because the motor fuel is below the mouth of the draw pipe. The amount of motor fuel in dead storage is 200 gallons for a tank with a capacity of less than 10,000 gallons and 400 gallons for a tank with a capacity of 10,000 gallons or more.

28. Section 51 of P.L.2010, c.22 is amended to read as follows:

51. a. A person who is licensed as a distributor pursuant to R.S.54:39-17 prior to January 1, 2011 shall be deemed a supplier licensed pursuant to the "Motor Fuel Tax Act," P.L.2010, c.22 (C.54:39-101 et seq.) as of January 1, 2011 and subject to P.L.2010, c.22 (C.54:39-101 et al.) regarding licensed suppliers unless the person licensed as a distributor pursuant to R.S.54:39-17 provides notice prior to January 1, 2011 that the person does not desire the status of licensee as a supplier pursuant to P.L.2010, c.22 (C.54:39-101 et al.). A person who is licensed as a distributor pursuant to

R.S.54:39-17 prior to January 1, 2011 who declines licensure pursuant to the "Motor Fuel Tax Act," P.L.2010, c.22 (C.54:39-101 et seq.) shall be deemed to have terminated its license as of the end of December 31, 2010, shall cease in-State activities covered by P.L.2010, c.22 (C.54:39-101 et al.), and shall be subject to final report requirements of section 27 of P.L.2010, c.22 (C.54:39-127). If no notice is received by the director prior to January 1, 2011 declining licensure, then that shall be deemed acceptance of the new license and responsibilities pursuant to the "Motor Fuel Tax Act," P.L.2010, c.22 (C.54:39-101 et seq.), and the person may continue in operation except as provided by subsection f. of this section.

Notice may be given to a person who is licensed as a distributor pursuant to R.S.54:39-17 prior to January 1, 2011 that the person will not be granted a license pursuant to the "Motor Fuel Tax Act," P.L.2010, c.22 (C.54:39-101 et seq.). A person given that notice shall cease activities covered by the license on or before January 1, 2011, shall be deemed to have terminated its license as of the end of December 31, 2010, and shall be subject to final report requirements of section 27 of P.L.2010, c.22 (C.54:39-127).

b. A person who is licensed as a retail dealer pursuant to R.S.54:39-30 prior to January 1, 2011 shall be deemed a retail dealer licensed pursuant to the "Motor Fuel Tax Act," P.L.2010, c.22 (C.54:39-101 et seq.) as of January 1, 2011 and subject to P.L.2010, c.22 (C.54:39-101 et al.) regarding retail dealers unless the person licensed as a retail dealer pursuant to R.S.54:39-30 provides notice prior to January 1, 2011 that the person does not desire the status of licensee as a retail dealer pursuant to P.L.2010, c.22 (C.54:39-101 et al.). A person who is licensed as a retail dealer pursuant to R.S.54:39-30 prior to January 1, 2011 who declines licensure pursuant to the "Motor Fuel Tax Act," P.L.2010, c.22 (C.54:39-101 et seq.) shall be deemed to have terminated its license as of the end of December 31, 2010, and shall cease in-State activities covered by P.L.2010, c.22 (C.54:39-101 et al.). If no notice is received by the director prior to January 1, 2011 declining licensure, then that shall be deemed acceptance of the new license and responsibilities pursuant to the "Motor Fuel Tax Act," P.L.2010, c.22 (C.54:39-101 et seq.), and the person may continue in operation except as provided by subsection f. of this section.

Notice may be given to a person who is licensed as a retail dealer pursuant to R.S.54:39-30 prior to January 1, 2011 that the person will not be granted a license pursuant to the "Motor Fuel Tax Act," P.L.2010, c.22 (C.54:39-101 et seq.). A person given that notice shall cease activities covered by the license on or before January 1, 2011, shall be deemed to have terminated its license as of

the end of December 31, 2010, and shall be subject to final report requirements of section 27 of P.L.2010, c.22 (C.54:39-127).

c. A person who is licensed as an importer, exporter, wholesaler, or jobber pursuant to R.S.54:39-1 et seq. prior to January 1, 2011 shall be deemed a distributor licensed pursuant to the "Motor Fuel Tax Act," P.L.2010, c.22 (C.54:39-101 et seq.) as of January 1, 2011 and subject to P.L.2010, c.22 (C.54:39-101 et al.) regarding licensed distributors unless the person licensed as an importer, exporter, wholesaler, or jobber pursuant to R.S.54:39-1 et seq. provides notice prior to January 1, 2011 that the person does not desire the status of licensee as a distributor pursuant to P.L.2010, c.22 (C.54:39-101 et al.). A person who is licensed as an importer, exporter, wholesaler, or jobber pursuant to R.S.54:39-1 et seq. prior to January 1, 2011 who declines licensure pursuant to the "Motor Fuel Tax Act," P.L.2010, c.22 (C.54:39-101 et seq.) shall be deemed to have terminated its license as of the end of December 31, 2010, shall cease in-State activities covered by P.L.2010, c.22 (C.54:39-101 et al.), and shall be subject to final report requirements of section 27 of P.L.2010, c.22 (C.54:39-127). If no notice is received by the director prior to January 1, 2011 declining licensure, then that shall be deemed acceptance of the new license and responsibilities pursuant to the "Motor Fuel Tax Act," P.L.2010, c.22 (C.54:39-101 et seq.), and the person may continue in operation except as provided by subsection f. of this section.

Notice may be given to a person who is licensed as an importer, exporter, wholesaler, or jobber pursuant to R.S.54:39-1 et seq. prior to January 1, 2011 that the person will not be granted a license pursuant to the "Motor Fuel Tax Act," P.L.2010, c.22 (C.54:39-101 et seq.). A person given that notice shall cease activities covered by the license on or before January 1, 2011, shall be deemed to have terminated its license as of December 31, 2010, and shall be subject to final report requirements of section 27 of P.L.2010, c.22 (C.54:39-127).

d. A person engaged in the business of hauling, transporting or delivering fuel who is a motor fuel transport licensee pursuant to R.S.54:39-1 et seq. or who has registered a conveyance for transporting fuel pursuant to R.S.54:39-41 prior to January 1, 2011 shall be deemed a transporter and the conveyance shall be deemed registered as a fuel conveyance pursuant to the "Motor Fuel Tax Act," P.L.2010, c.22 (C.54:39-101 et seq.) as of January 1, 2011 and subject to P.L.2010, c.22 (C.54:39-101 et al.) regarding transporters and fuel conveyances unless the motor fuel transport licensee or person having a registered conveyance provides notice prior to January 1, 2011 that the person does not desire the status of transporter or does not desire to

have a registered fuel conveyance pursuant to P.L.2010, c.22 (C.54:39-101 et al.). A person who is a motor fuel transport licensee or who has a conveyance registered pursuant to R.S.54:39-41 prior to January 1, 2011 who declines status pursuant to the "Motor Fuel Tax Act," P.L.2010, c.22 (C.54:39-101 et seq.) shall be deemed to have terminated its motor fuel transport license and its conveyance registration, as applicable, as of the end of December 31, 2010, and shall cease in-State activities covered by P.L.2010, c.22 (C.54:39-101 et al.). If no notice is received by the director prior to January 1, 2011 declining licensure, or registration as applicable, then that shall be deemed acceptance of the new license, or registration as applicable, and acceptance of transporter responsibilities pursuant to the "Motor Fuel Tax Act," P.L.2010, c.22 (C.54:39-101 et seq.).

Notice may be given to a person who is engaged in the business of hauling, transporting or delivering fuel who is a motor fuel transport licensee pursuant to R.S.54:39-1 et seq. or who has registered a conveyance for transporting fuel pursuant to R.S.54:39-41 that the person will not be granted a license pursuant to the "Motor Fuel Tax Act," P.L.2010, c.22 (C.54:39-101 et seq.). A person given that notice shall cease activities covered by the license on or before January 1, 2011 and, shall be deemed to have terminated its license as of December 31, 2010 and shall be subject to final report requirements of section 27 of P.L.2010, c.22 (C.54:39-127).

e. All other persons licensed pursuant to R.S.54:39-1 et seq. shall apply to the director for an appropriate license, as determined by the director and subject to such rules as the director may prescribe, pursuant to this section on or before January 1, 2011 or cease activities requiring a license under this section. If a person accepts a new license and responsibilities that license entails pursuant to the "Motor Fuel Tax Act," P.L.2010, c.22 (C.54:39-101 et seq.), the person may continue in operation except as provided by subsection f. of this section.

f. A person required to file a bond or other surety with the director pursuant to the "Motor Fuel Tax Act," P.L.2010, c.22 (C.54:39-101 et seq.) shall have until January 31, 2011, to establish, reestablish or transfer that surety to the person's new license status pursuant to P.L.2010, c.22 (C.54:39-101 et al.). A person who does not meet those bonding requirements by January 31, 2011 shall cease activities covered by the license on January 31, 2011.

g. Licenses issued pursuant to R.S.54:39-1 et seq. and not continued pursuant to this section shall be invalid as of January 1, 2011. Licenses accepted pursuant to this section in place of the license issued pursuant to

R.S.54:39-1 et seq. shall be valid until the expiration date of the license originally issued pursuant to R.S.54:39-1 et seq.

29. Section 57 of P.L.2010, c.22 is amended to read as follows:

57. This act shall take effect immediately, provided however that sections 1 through 27, 29 through 49, and 53 through 56 shall remain inoperative until January 1, 2011.

30. This act shall take effect immediately.

Approved October 1, 2010.

CHAPTER 80

AN ACT concerning the trauma center at University Hospital and amending P.L.1986, c.106.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Section 1 of P.L.1986, c.106 (C.26:2K-35) is amended to read as follows:

C.26:2K-35 Definitions.

1. As used in this act:

a. "Commissioner" means the Commissioner of the Department of Health and Senior Services.

b. "Dispatch" means the coordinated request for and dispatch of the emergency medical service helicopter response unit by a central communications center located in the service area, following protocols developed by the mobile intensive care hospital, the regional trauma or critical care center, the commissioner and the superintendent.

c. "Emergency medical service helicopter response unit" means a specially equipped hospital-based emergency medical service helicopter staffed by advanced life support personnel and operated for the provision of advanced life support services under the medical direction of a mobile intensive care program and the regional trauma or critical care center authorized by the commissioner.

d. "Emergency medical transportation" means the prehospital or interhospital transportation of an acutely ill or injured patient by a dedicated

emergency medical service helicopter response unit operated, maintained and piloted by the Division of State Police of the Department of Law and Public Safety, pursuant to regulations adopted by the commissioner under chapter 40 of Title 8 of the New Jersey Administrative Code.

e. "Medical direction" means the medical control and medical orders transmitted from the physician of the mobile intensive care hospital or from the physician at the regional trauma or critical care center to the staff of the helicopter. The mobile intensive care unit coordinating center and regional trauma or critical care center shall have the ability to cross patch and consult with each other as approved by the commissioner.

f. "Mobile intensive care hospital" means a hospital authorized by the commissioner to develop and maintain a mobile intensive care unit to provide advanced life support services in accordance with P.L.1984, c.146 (C.26:2K-7 et al.).

g. "Regional trauma center" means a State designated level one hospital-based trauma center equipped and staffed to provide emergency medical services to an accident or trauma victim, including, but not limited to, the level one trauma centers at the University of Medicine and Dentistry of New Jersey-University Hospital in Newark, known as the "Eric Munoz Trauma Center," and at the Cooper Hospital/University Medical Center in Camden.

h. "Critical care center" means a hospital authorized by the commissioner to provide regional critical care services, such as trauma, burn, spinal cord, cardiac, poison or neonatal care.

i. "Superintendent" means the Superintendent of the Division of State Police of the Department of Law and Public Safety.

2. The board of trustees of the University of Medicine and Dentistry of New Jersey shall rename the "New Jersey Trauma Center" at University Hospital as the "Eric Munoz Trauma Center."

3. This act shall take effect on the first day of the fourth month next following the date of enactment.

Approved October 6, 2010.

CHAPTER 81

AN ACT establishing the State Mental Health Facilities Evaluation Task Force.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. As used in this act:

"Commissioner" means the Commissioner of Human Services.

"Department" means the Department of Human Services.

"State psychiatric facility" means a State psychiatric hospital listed in R.S.30:1-7.

2. a. There is established the State Mental Health Facilities Evaluation Task Force.

b. The purpose of the task force shall be to review and assess the viability of the department's "Plan for the Closure of the Senator Garrett W. Hagedorn Psychiatric Hospital" and its impact on New Jersey's State psychiatric facility system.

c. In order to effectuate the purposes of subsection b. of this section, the task force shall, at a minimum, advise the department on the following issues:

(1) the plan's consistency with the United States Supreme Court Olmstead decision and the department's July 2009 Olmstead settlement agreement;

(2) whether sufficient capacity and appropriate staff expertise will be made available in the remaining State psychiatric facilities to accommodate the current and future needs of patients requiring that level of care, including, but not limited to, an evaluation of geriatric care;

(3) whether geographic accessibility for State psychiatric facility care is maintained throughout the State, while considering the option of specialization of care at a single location;

(4) whether the State psychiatric facility system can accommodate patients with a forensic background, while considering the option of specialization of care at a single location;

(5) whether the plan adequately examines the allocation of State resources between the State psychiatric facility system and community system of care, while considering how to yield the most savings from the State psychiatric facility system; and

(6) the impact on other State and private agencies that share State-owned campuses, as well as the impact on area hospitals and the community mental health system.

d. The task force shall include 21 members, as follows:

(1) the Commissioner of Human Services and the Directors of the Divisions of Mental Health Services, Medical Assistance and Health Services, and Developmental Disabilities in the department, or their designees, as ex officio members;

(2) two members each from the Senate and the General Assembly, to be appointed by the President of the Senate and the Speaker of the General Assembly, respectively, who in each case shall be members of different political parties; and

(3) 13 public members who are residents of this State, as follows:

(a) 11 public members to be appointed by the Governor, including: one person who is a county mental health administrator; one person who is a county human services director; one person appointed upon the recommendation of the New Jersey Association of Mental Health and Addiction Agencies; one person appointed upon the recommendation of NAMI New Jersey; one person appointed upon the recommendation of the Mental Health Association in New Jersey; one person upon the recommendation of the Institute for Health, Health Care Policy and Aging Research at Rutgers, The State University of New Jersey; one person upon the recommendation of the New Jersey Psychiatric Rehabilitation Association; one person upon the recommendation of the New Jersey Hospital Association; one person upon the recommendation of the Coalition of Mental Health Consumer Organizations of New Jersey; one person who is a member of the board of trustees of a State psychiatric facility; and one member of the general public with an interest or expertise in the work of the task force; and

(b) two additional members of the general public with an interest or expertise in the work of the task force, who in each case have, or have had, a family member who is, or has been, a patient in a State psychiatric facility, one of whom shall be appointed by the President of the Senate and one of whom shall be appointed by the Speaker of the General Assembly.

e. The legislative members of the task force shall serve during their terms of office. Vacancies in the membership of the task force shall be filled in the same manner provided for the original appointments.

f. The commissioner or the commissioner's designee shall serve as chairperson of the task force. The task force shall organize as soon as practicable following the appointment of its members and shall select a vice-chairperson from among the members. The chairperson shall appoint a secretary who need not be a member of the task force.

g. The public members shall serve without compensation, but shall be reimbursed for necessary expenses incurred in the performance of their duties and within the limits of funds available to the task force.

h. The task force shall be entitled to call to its assistance and avail itself of the services of the employees of any State, county or municipal department, board, bureau, commission or agency as it may require and as may be available to it for its purposes.

i. The task force may meet and hold hearings at the places that it designates during the sessions or recesses of the Legislature, but shall hold a minimum of three public hearings, one each in the southern, central, and northern regions of the State.

j. The department shall provide staff support to the task force.

k. The task force shall report its findings and recommendations to the Governor, and to the Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), along with any legislative bills that it desires to recommend for adoption by the Legislature, no later than February 1, 2011. The report shall contain an analysis of the issues set forth in subsection c. of this section.

3. This act shall take effect immediately and shall expire upon the issuance of the task force report.

Approved October 7, 2010.

CHAPTER 82

AN ACT concerning unemployment compensation and amending and supplementing chapter 21 of Title 43 of the Revised Statutes.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. R.S.43:21-6 is amended to read as follows:

Claim for benefits.

43:21-6. (a) Filing. Claims for benefits shall be made in accordance with such regulations as the Director of the Division of Unemployment and Temporary Disability Insurance of the Department of Labor and Workforce Development of the State of New Jersey may approve. Each employer shall post and maintain on his premises printed notices of his subject status, of such design, in such numbers and at such places as the director of the division may determine to be necessary to give notice thereof to persons in the employer's service. Each employer shall give to each individual at the time he becomes unemployed a printed copy of benefit instructions. Both

the aforesaid notices and instructions shall be supplied by the division to employers without cost to them.

(b) (1) Procedure for making initial determinations with respect to benefit years commencing on or after January 1, 1953.

A representative or representatives designated by the director of the division and hereafter referred to as a "deputy" shall promptly examine the claim, and shall notify the most recent employing unit and, successively as necessary, each employer in inverse chronological order during the base year. Such notification shall require said employing unit and employer to furnish such information to the deputy as may be necessary to determine the claimant's eligibility and his benefit rights with respect to the employer in question.

In his discretion, the director may appoint special deputies to make initial or subsequent determinations under subsection (f) of R.S.43:21-4 and subsection (d) of R.S.43:21-5.

If any employer or employing unit fails to respond to the request for information within 10 days after the mailing, or communicating by electronic means, of such request, the deputy shall rely entirely on information from other sources, including an affidavit to the best of the knowledge and belief of the claimant with respect to his wages and time worked. Except in the event of fraud, if it is determined that any information in such affidavit is erroneous, no penalty shall be imposed on the claimant.

The deputy shall promptly make an initial determination based upon the available information. The initial determination shall show the weekly benefit amount payable, the maximum duration of benefits with respect to the employer to whom the determination relates, and the ratio of benefits chargeable to the employer's account for benefit years commencing on or after July 1, 1986, and also shall show whether the claimant is ineligible or disqualified for benefits under the initial determination. The claimant and the employer whose account may be charged for benefits payable pursuant to said determination shall be promptly notified thereof.

Whenever an initial determination is based upon information other than that supplied by an employer because such employer failed to respond to the deputy's request for information, such initial determination and any subsequent determination thereunder shall be incontestable by the noncomplying employer, as to any charges to his employer's account because of benefits paid prior to the close of the calendar week following the receipt of his reply. Such initial determination shall be altered if necessary upon receipt of information from the employer, and any benefits paid or payable with respect to weeks occurring subsequent to the close of the calendar week

following the receipt of the employer's reply shall be paid in accordance with such altered initial determination.

The deputy shall issue a separate initial benefit determination with respect to each of the claimant's base year employers, starting with the most recent employer and continuing as necessary in the inverse chronological order of the claimant's last date of employment with each such employer. If an appeal is taken from an initial determination, as hereinafter provided, by any employer other than the first chargeable base year employer or for benefit years commencing on or after July 1, 1986, that employer from whom the individual was most recently separated, then such appeal shall be limited in scope to include only one or more of the following matters:

(A) The correctness of the benefit payments authorized to be made under the determination;

(B) Fraud in connection with the claim pursuant to which the initial determination is issued;

(C) The refusal of suitable work offered by the chargeable employer filing the appeal; or

(D) Gross misconduct as provided in subsection (b) of R.S.43:21-5.

The amount of benefits payable under an initial determination may be reduced or canceled if necessary to avoid payment of benefits for a number of weeks in excess of the maximum specified in subsection (d) of R.S.43:21-3.

Unless the claimant or any interested party, within seven calendar days after delivery of notification of an initial determination or within 10 calendar days after such notification was mailed to his or their last-known address and addresses, files an appeal from such decision, such decision shall be final and benefits shall be paid or denied in accordance therewith, except for such determinations as may be altered in benefit amounts or duration as provided in this paragraph. Benefits payable for periods pending an appeal and not in dispute shall be paid as such benefits accrue; provided that insofar as any such appeal is or may be an appeal from a determination to the effect that the claimant is disqualified under the provisions of R.S.43:21-5 or any amendments thereof or supplements thereto, benefits pending determination of the appeal shall be withheld only for the period of disqualification as provided for in said section, and notwithstanding such appeal, the benefits otherwise provided by this act shall be paid for the period subsequent to such period of disqualification; and provided, also, that if there are two determinations of entitlement, benefits for the period covered by such determinations shall be paid regardless of any appeal which may thereafter

be taken, but no employer's account shall be charged with benefits so paid, if the decision is finally reversed.

(2) Procedure for making initial determinations in certain cases of concurrent employment, with respect to benefit years commencing on or after January 1, 1953 and prior to benefit years commencing on or after July 1, 1986.

Notwithstanding any other provisions of this Title, if an individual shows to the satisfaction of the deputy that there were at least 13 weeks in his base period in each of which he earned wages from two or more employers totaling $30.00 or more but in each of which there was no single employer from whom he earned as much as $100.00, then such individual's claim shall be determined in accordance with the special provisions of this paragraph. In such case, the deputy shall determine the individual's eligibility for benefits, his average weekly wage, weekly benefit rate and maximum total benefits as if all his base year employers were a single employer. Such determination shall apportion the liability for benefit charges thereunder to the individual's several base year employers so that each employer's maximum liability for charges thereunder bears approximately the same relation to the maximum total benefits allowed as the wages earned by the individual from each employer during the base year bears to his total wages earned from all employers during the base year. Such initial determination shall also specify the individual's last date of employment within the base year with respect to each base year employer, and such employers shall be charged for benefits paid under said initial determination in the inverse chronological order of such last date of employment.

(3) Procedure for making subsequent determinations with respect to benefit years commencing on or after January 1, 1953. The deputy shall make determinations with respect to claims for benefits thereafter in the course of the benefit year, in accordance with any initial determination allowing benefits, and under which benefits have not been exhausted, and each notification of a benefit payment shall be a notification of an affirmative subsequent determination. The allowance of benefits by the deputy on any such determination, or the denial of benefits by the deputy on any such determination, shall be appealable in the same manner and under the same limitations as is provided in the case of initial determinations.

(c) Appeals. Unless such appeal is withdrawn, an appeal tribunal, after affording the parties reasonable opportunity for fair hearing, shall affirm or modify the findings of fact and the determination. The parties shall be duly notified of such tribunal's decision, together with its reasons therefor, which shall be deemed to be the final decision of the board of review, unless further appeal is initiated pursuant to subsection (e) of this section within 10

days after the date of notification or mailing of the decision for any decision made on or before December 1, 2010, or within 20 days after the date of notification or mailing of such decision for any decision made after December 1, 2010.

(d) Appeal tribunals. To hear and decide disputed benefit claims, including appeals from determinations with respect to demands for refunds of benefits under subsection (d) of R.S.43:21-16, the director with the approval of the Commissioner of Labor and Workforce Development shall establish impartial appeal tribunals consisting of a salaried body of examiners under the supervision of a Chief Appeals Examiner, all of whom shall be appointed pursuant to the provisions of Title 11A of the New Jersey Statutes, Civil Service and other applicable statutes.

(e) Board of review. The board of review may on its own motion affirm, modify, or set aside any decision of an appeal tribunal on the basis of the evidence previously submitted in such case, or direct the taking of additional evidence, or may permit any of the parties to such decision to initiate further appeals before it. The board of review shall permit such further appeal by any of the parties interested in a decision of an appeal tribunal which is not unanimous and from any determination which has been overruled or modified by any appeal tribunal. The board of review may remove to itself or transfer to another appeal tribunal the proceedings on any claim pending before an appeal tribunal. Any proceedings so removed to the board of review shall be heard by a quorum thereof in accordance with the requirements of subsection (c) of this section. The board of review shall promptly notify the interested parties of its findings and decision.

(f) Procedure. The manner in which disputed benefit claims, and appeals from determinations with respect to (1) claims for benefits and (2) demands for refunds of benefits under subsection (d) of R.S.43:21-16 shall be presented, the reports thereon required from the claimant and from employers, and the conduct of hearings and appeals shall be in accordance with rules prescribed by the board of review for determining the rights of the parties, whether or not such rules conform to common law or statutory rules of evidence and other technical rules of procedure. A full and complete record shall be kept of all proceedings in connection with a disputed claim. All testimony at any hearing upon a disputed claim shall be recorded, but need not be transcribed unless the disputed claim is further appealed.

(g) Witness fees. Witnesses subpenaed pursuant to this section shall be allowed fees at a rate fixed by the director. Such fees and all expenses of proceedings involving disputed claims shall be deemed a part of the expense of administering this chapter (R.S.43:21-1 et seq.).

(h) Court review. Any decision of the board of review shall become final as to any party upon the mailing of a copy thereof to such party or to his attorney, or upon the mailing of a copy thereof to such party at his last-known address. The Division of Unemployment and Temporary Disability Insurance and any party to a proceeding before the board of review may secure judicial review of the final decision of the board of review. Any party not joining in the appeal shall be made a defendant; the board of review shall be deemed to be a party to any judicial action involving the review of, or appeal from, any of its decisions, and may be represented in any such judicial action by any qualified attorney, who may be a regular salaried employee of the board of review or has been designated by it for that purpose, or, at the board of review's request, by the Attorney General.

(i) Failure to give notice. The failure of any public officer or employee at any time heretofore or hereafter to give notice of determination or decision required in subsections (b), (c) and (e) of this section, as originally passed or amended, shall not relieve any employer's account of any charge by reason of any benefits paid, unless and until that employer can show to the satisfaction of the director of the division that the said benefits, in whole or in part, would not have been charged or chargeable to his account had such notice been given. Any determination hereunder by the director shall be subject to court review.

2. R.S.43:21-16 is amended to read as follows:

Unemployment compensation offenses and penalties.

43:21-16. (a) Whoever makes a false statement or representation, knowing it to be false, or knowingly fails to disclose a material fact, to obtain or increase or attempts to obtain or increase any benefit or other payment under this chapter (R.S.43:21-1 et seq.), or under an employment security law of any other state or of the federal government, either for himself or for any other person, shall be liable to a fine of $20.00 for each offense, or 25% of the amount fraudulently obtained, whichever is greater, to be recovered in an action at law in the name of the Division of Unemployment and Temporary Disability Insurance of the Department of Labor and Workforce Development of the State of New Jersey or as provided in subsection (e) of R.S.43:21-14, said fine when recovered to be paid to the unemployment compensation auxiliary fund for the use of said fund; and each such false statement or representation or failure to disclose a material fact shall constitute a separate offense. Any penalties imposed by this subsection shall be in addition to those otherwise prescribed in this chapter (R.S.43:21-1 et seq.).

(b) (1) An employing unit or any officer or agent of an employing unit or any other person who makes a false statement or representation, knowing it to be false, or who knowingly fails to disclose a material fact, to prevent or reduce the payment of benefits to any individual entitled thereto or to avoid becoming or remaining subject hereto or to avoid or reduce any contribution or other payment required from an employing unit under this chapter (R.S.43:21-1 et seq.), or under an employment security law of any other state or of the federal government, or who willfully fails or refuses to furnish any reports required hereunder (except for such reports as may be required under subsection (b) of R.S.43:21-6) or to produce or permit the inspection or copying of records, as required hereunder, shall be liable to a fine of $100.00, or 25% of the amount fraudulently withheld, whichever is greater, to be recovered in an action at law in the name of the Division of Unemployment and Temporary Disability Insurance of the Department of Labor and Workforce Development of the State of New Jersey or as provided in subsection (e) of R.S.43:21-14, said fine when recovered to be paid to the unemployment compensation auxiliary fund for the use of said fund; and each such false statement or representation or failure to disclose a material fact, and each day of such failure or refusal shall constitute a separate offense. Any penalties imposed by this paragraph shall be in addition to those otherwise prescribed in this chapter (R.S.43:21-1 et seq.).

(2) Any employing unit or any officer or agent of an employing unit or any other person who fails to submit any report required under subsection (b) of R.S.43:21-6 shall be subject to a penalty of $25.00 for the first report not submitted within 10 days after the mailing of a request for such report, and an additional $25.00 penalty may be assessed for the next 10-day period, which may elapse after the end of the initial 10-day period and before the report is filed; provided that when such report or reports are not filed within the prescribed time but it is shown to the satisfaction of the director that the failure was due to a reasonable cause, no such penalty shall be imposed. Any penalties imposed by this paragraph shall be recovered as provided in subsection (e) of R.S.43:21-14, and when recovered shall be paid to the unemployment compensation auxiliary fund for the use of said fund.

(3) Any employing unit, officer or agent of the employing unit, or any other person, determined by the controller to have knowingly violated, or attempted to violate, or advised another person to violate the transfer of employment experience provisions found at R.S.43:21-7 (c)(7), or who otherwise knowingly attempts to obtain a lower rate of contributions by failing to disclose material information, or by making a false statement, or by a misrepresentation of fact, shall be subject to a fine of $5,000 or 25% of

the contributions under-reported or attempted to be under-reported, whichever is greater, to be recovered as provided in subsection (e) of R.S.43:21-14, and when recovered to be paid to the unemployment compensation auxiliary fund for the use of said fund. For the purposes of this subsection, "knowingly" means having actual knowledge of, or acting with deliberate ignorance or reckless disregard for the prohibition involved.

(c) Any person who shall willfully violate any provision of this chapter (R.S.43:21-1 et seq.) or any rule or regulation thereunder, the violation of which is made unlawful or the observance of which is required under the terms of this chapter (R.S.43:21-1 et seq.), and for which a penalty is neither prescribed herein nor provided by any other applicable statute, shall be liable to a fine of $50.00, to be recovered in an action at law in the name of the Division of Unemployment and Temporary Disability Insurance of the Department of Labor and Workforce Development of the State of New Jersey or as provided in subsection (e) of R.S.43:21-14, said fine when recovered to be paid to the unemployment compensation auxiliary fund for the use of said fund; and each day such violation continues shall be deemed to be a separate offense.

(d) (1) When it is determined by a representative or representatives designated by the Director of the Division of Unemployment and Temporary Disability Insurance of the Department of Labor and Workforce Development of the State of New Jersey that any person, whether (i) by reason of the nondisclosure or misrepresentation by him or by another of a material fact (whether or not such nondisclosure or misrepresentation was known or fraudulent), or (ii) for any other reason, has received any sum as benefits under this chapter (R.S.43:21-1 et seq.) while any conditions for the receipt of benefits imposed by this chapter (R.S.43:21-1 et seq.) were not fulfilled in his case, or while he was disqualified from receiving benefits, or while otherwise not entitled to receive such sum as benefits, such person, unless the director (with the concurrence of the controller) directs otherwise by regulation, shall be liable to repay those benefits in full. The employer's account shall not be charged for the amount of an overpayment of benefits if the overpayment was caused by an error of the division and not by any error of the employer. The sum shall be deducted from any future benefits payable to the individual under this chapter (R.S.43:21-1 et seq.) or shall be paid by the individual to the division for the unemployment compensation fund, and such sum shall be collectible in the manner provided for by law, including, but not limited to, the filing of a certificate of debt with the Clerk of the Superior Court of New Jersey; provided, however, that, except in the event of fraud, no person shall be liable for any

such refunds or deductions against future benefits unless so notified before four years have elapsed from the time the benefits in question were paid. Such person shall be promptly notified of the determination and the reasons therefor. The determination shall be final unless the person files an appeal of the determination within seven calendar days after the delivery of the determination, or within 10 calendar days after such notification was mailed to his last-known address, for any determination made on or before December 1, 2010, and any initial determination made pursuant to paragraph (1) of subsection (b) of R.S.43:21-6 after December 1, 2010, or within 20 calendar days after the delivery of such determination, or within 20 calendar days after such notification was mailed to his last-known address, for any determination other than an initial determination made after December 1, 2010.

(2) Interstate and cross-offset of state and federal unemployment benefits. To the extent permissible under the laws and Constitution of the United States, the commissioner is authorized to enter into or cooperate in arrangements or reciprocal agreements with appropriate and duly authorized agencies of other states or the United States Secretary of Labor, or both, whereby:

(A) Overpayments of unemployment benefits as determined under subsection (d) of R.S.43:21-16 shall be recovered by offset from unemployment benefits otherwise payable under the unemployment compensation law of another state, and overpayments of unemployment benefits as determined under the unemployment compensation law of another state shall be recovered by offset from unemployment benefits otherwise payable under R.S.43:21-1 et seq.; and

(B) Overpayments of unemployment benefits as determined under applicable federal law, with respect to benefits or allowances for unemployment provided under a federal program administered by this State under an agreement with the United States Secretary of Labor, shall be recovered by offset from unemployment benefits otherwise payable under R.S.43:21-1 et seq., or any federal program administered by this State, or under the unemployment compensation law of another state or any federal unemployment benefit or allowance program administered by another state under an agreement with the United States Secretary of Labor, if the other state has in effect a reciprocal agreement with the United States Secretary of Labor as authorized by subsection (g) of 42 U.S.C.s.503, and if the United States agrees, as provided in the reciprocal agreement with this State entered into under subsection (g) of 42 U.S.C.s.503, that overpayments of unemployment benefits as determined under subsection (d) of R.S.43:21-16 and

overpayments as determined under the unemployment compensation law of another state which has in effect a reciprocal agreement with the United States Secretary of Labor as authorized by subsection (g) of 42 U.S.C.s.503, shall be recovered by offset from benefits or allowances otherwise payable under a federal program administered by this State or another state under an agreement with the United States Secretary of Labor.

(e) (1) Any employing unit, or any officer or agent of an employing unit, which officer or agent is directly or indirectly responsible for collecting, truthfully accounting for, remitting when payable any contribution, or filing or causing to be filed any report or statement required by this chapter, or employer, or person failing to remit, when payable, any employer contributions, or worker contributions (if withheld or deducted), or the amount of such worker contributions (if not withheld or deducted), or filing or causing to be filed with the controller or the Division of Unemployment and Temporary Disability Insurance of the Department of Labor and Workforce Development of the State of New Jersey, any false or fraudulent report or statement, and any person who aids or abets an employing unit, employer, or any person in the preparation or filing of any false or fraudulent report or statement with intent to defraud the State of New Jersey or an employment security agency of any other state or of the federal government, or with intent to evade the payment of any contributions, interest or penalties, or any part thereof, which shall be due under the provisions of this chapter (R.S.43:21-1 et seq.), shall be liable for each offense upon conviction before any Superior Court or municipal court, to a fine not to exceed $1,000.00 or by imprisonment for a term not to exceed 90 days, or both, at the discretion of the court. The fine upon conviction shall be payable to the unemployment compensation auxiliary fund. Any penalties imposed by this subsection shall be in addition to those otherwise prescribed in this chapter (R.S.43:21-1 et seq.).

(2) Any employing unit, officer or agent of the employing unit, or any other person, who knowingly violates, or attempts to violate, or advise another person to violate the transfer of employment experience provisions found at R.S.43:21-7 (c)(7) shall be, upon conviction before any Superior Court or municipal court, guilty of a crime of the fourth degree. For the purposes of this subsection, "knowingly" means having actual knowledge of, or acting with deliberate ignorance or reckless disregard for the prohibition involved.

(f) Any employing unit or any officer or agent of an employing unit or any other person who aids and abets any person to obtain any sum of benefits under this chapter to which he is not entitled, or a larger amount as

benefits than that to which he is justly entitled, shall be liable for each offense upon conviction before any Superior Court or municipal court, to a fine not to exceed $1,000.00 or by imprisonment for a term not to exceed 90 days, or both, at the discretion of the court. The fine upon conviction shall be payable to the unemployment compensation auxiliary fund. Any penalties imposed by this subsection shall be in addition to those otherwise prescribed in this chapter (R.S.43:21-1 et seq.).

(g) There shall be created in the Division of Unemployment and Temporary Disability Insurance of the Department of Labor and Workforce Development of the State of New Jersey an investigative staff for the purpose of investigating violations referred to in this section and enforcing the provisions thereof.

(h) An employing unit or any officer or agent of an employing unit who makes a false statement or representation, knowing it to be false, or who knowingly fails to disclose a material fact, to reduce benefit charges to the employing unit pursuant to paragraph (1) of subsection (c) of R.S.43:21-7, shall be liable to a fine of $1,000, to be recovered in an action at law in the name of the Division of Unemployment and Temporary Disability Insurance of the Department of Labor and Workforce Development of the State of New Jersey or as provided in subsection (e) of R.S.43:21-14. The fine when recovered shall be paid to the unemployment compensation auxiliary fund for the use of the fund. Each false statement or representation or failure to disclose a material fact, and each day of that failure or refusal shall constitute a separate offense. Any penalties imposed by this subsection shall be in addition to those otherwise prescribed in R.S.43:21-1 et seq.

C.43:21-6.2 Registration of authorized agent.

3. a. An authorized agent who represents parties for a fee shall not represent any party after December 1, 2010 in any procedure with the division regarding claims for unemployment benefits or any obligations of employers regarding charges or taxes for unemployment compensation, including any filing of information, or any appeal, hearing, or other proceeding regarding unemployment benefit claims, charges or taxes before any representative of the division, unless the authorized agent is registered with the division pursuant to this section.

b. Each authorized agent shall register with the division using forms provided by the division. An applying authorized agent who is an individual shall provide the individual's name, permanent address and telephone number. An authorized agent which is an organization or business shall provide the name, local address and telephone numbers, and address and

telephone number of the principal place of business, if different, and the names of principals or others authorized to act on behalf of the organization and to receive notice. Any changes in identifying information shall be promptly reported to the division. The division may elect to set by regulation a schedule of fees for the registration of agents required by this section, except that if the division elects to set a schedule of fees pursuant to this subsection, the amount collected in fees shall not exceed the amount determined by the director of the division to be necessary for the implementation of the provisions of sections 3 through 9 of this act.

c. Upon registration, an authorized agent shall be assigned a registration number that shall be used in all communications with, or appearances before, any representative of the division. An individual communicating or appearing on behalf of an organization or business providing representation for a fee to parties before any representative of the division shall indicate the registration number of the individual, unless that individual is an attorney, and the registration number of the organization or business, and the division shall not accept any representation of the party in a communication with, or proceeding of, the division by an individual, organization or business if the number or numbers are not provided. If an attorney is employed by, or otherwise provides service to, an organization or business which is an authorized agent, the registration number of the organization or business shall be provided.

d. Each registrant shall file notice with the division within thirty days after the agent ceases activity as an authorized agent.

C.43:21-6.3 Responsibilities of authorized agent to client.

4. a. An authorized agent shall keep any party that is a client of the agent reasonably informed about the status of any matter before the division and verify with the client the accuracy of any information it provides to the division.

b. An authorized agent shall promptly notify the client of any scheduled proceedings before any representative of the division to allow time for case preparation and the scheduling of witnesses. Clients shall be apprised of the consequences of not appearing and the importance of participation at all stages of the proceedings and of producing first-hand testimony.

c. If a client determines that it does not wish to pursue an appeal, a request for withdrawal of the appeal shall be made in writing, or communicated orally and followed by a written request, in a timely fashion. If the client and the authorized agent determine that there is no basis for an appeal, that the appeal is frivolous, or that the client is not interested in pursu-

ing the appeal, the appeal shall be withdrawn, as soon as possible, and prior to the scheduling of a hearing if possible.

C.43:21-6.4 Postponement request.

5. a. If an authorized agent believes that a critical witness will not be available for a scheduled hearing and requests a postponement in order to produce the witness, the authorized agent shall, after consulting with the client, provide the division with the name, address, and title of the witness, the reason the witness is unable to attend, the general nature and importance of the witness's testimony, and an explanation of why there is no other witness able to provide the essential testimony that the critical witness would provide. Upon request, the authorized agent shall submit a written statement of its request and supporting documentation or sworn affidavit to the division.

b. If a postponement request is denied, the authorized agent shall notify the client that the hearing will go forward as scheduled and advise the client to appear. In the event that a postponement request made pursuant to subsection a. of this section is denied, the client shall be advised to appear with or without the critical witness or another witness, and that it may renew the postponement request at the hearing by requesting a continuance of the hearing.

c. In the event that the client or agent does not appear at a scheduled hearing without requesting a postponement, or that a postponement request is made but properly denied and the agent or the client does not appear, no further hearings will be scheduled at the request of the client or agent, unless the client or agent can demonstrate to the satisfaction of a representative of the division that the failure to appear was due to circumstances beyond the control of the client or agent.

C.43:21-6.5 Representation provided by authorized agent.

6. a. An authorized agent shall provide competent representation to each party that is a client of the agent. The authorized agent shall explain the proceedings and prepare the case with the client and any witnesses before any division hearing is called, shall be acquainted with the facts and legal issues involved, and shall arrange for producing witnesses and documentary evidence at the hearing.

b. An authorized agent shall make a reasonable effort to have testimony given by first-hand witnesses in the case.

c. An authorized agent seeking to inspect or review a case file may do so prior to the date of the hearing. If it is necessary for the authorized agent to review the file on the day of the hearing, the authorized agent shall make arrangements with the division in advance of the scheduled hearing time.

d. An authorized agent shall not delay the hearing or disturb the progress of other cases or the functioning of the division in an effort to view a case file or consult with its client or witnesses.

C.43:21-6.6 Production of evidence, witnesses at hearing.

7. An authorized agent shall be prepared to produce all necessary evidence and witnesses at the time the hearing is scheduled to commence and provide, prior to the date of the hearing, to all parties copies of any documentary evidence to be admitted into the record. An authorized agent shall not:

a. Engage in, or counsel or assist any party that is a client to engage in, conduct which the authorized agent knows or should know to be criminal, in violation of the provisions of sections 3 through 9 of this act or other provisions of this chapter (R.S.43:21-1 et seq.), or is prejudicial to, or unnecessarily delays, the efficient administration of this chapter (R.S.43:21-1 et seq.), including any failure to be, without good cause, available and properly prepared to participate in appeals, hearings and other procedures at the scheduled times;

b. Engage in, or counsel or assist any party that is a client to engage in, conduct involving dishonesty, fraud, deceit, misrepresentation, or the withholding of material facts;

c. Unlawfully obstruct another party's access to evidence or destroy or conceal evidence; assert personal knowledge of the facts unless testifying as a witness;

d. Refer at a hearing to a matter which the authorized agent does not reasonably believe is relevant or is not supported by evidence;

e. Seek to improperly influence any representative of the division; or

f. Engage in any ex parte communication with any representative of the division concerning the merits of any pending appeal unless all other parties have waived their right to participate.

C.43:21-6.7 Violations committed by authorized agent.

8. a. If the commissioner determines that an authorized agent has exhibited a pattern of repeated violations of the provisions of sections 3 through 9 of this act or other provisions of this chapter (R.S.43:21-1 et seq.), including any violations of the provisions of R.S.43:21-16 which apply to the agents of employing units, the commissioner shall, in addition to any other actions taken in the enforcement of this chapter, notify the authorized agent of this finding and that the commissioner will monitor the authorized agent to ascertain whether the violations continue after the notification.

b. If, at the conclusion of a monitoring period of not more than 12 months after the first determination, the commissioner determines that the

agent has continued the pattern of repeated violations of the provisions, the commissioner:

(1) May, after affording the authorized agent notice and an opportunity for a hearing in accordance with the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), suspend the registration of the authorized agent, for a period of time determined by the commissioner. In determining the length of a suspension, the commissioner shall distinguish between serious violations which potentially undermine the integrity of the benefit determination and appeals processes and lesser violations, and shall consider any of the following factors which are relevant: whether the violations represent a continuation of the violations identified in the previous determination, the gravity and duration of the violations, the amount of harm resulting from the violations, the experience of the authorized agent, the authorized agent's history of previous violations or complaints filed of a similar or different nature, the number of violations identified, and the existence of mitigating circumstances, whether the authorized agent made good faith efforts to comply with any applicable requirements, and any other factors the commissioner considers relevant.

(2) Shall continue to monitor the conduct of the authorized agent for a period of not more than 12 months after the determination made pursuant to this subsection b.

c. If, in the subsequent monitoring of the conduct of the authorized agent pursuant to subsection b. of this section, the commissioner determines that the authorized agent has continued the pattern of repeated violations, the commissioner, after affording the authorized agent notice and an opportunity for a hearing in accordance with the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall revoke the registration of the authorized agent.

An authorized agent representing an employer shall be regarded as an agent of an employing unit for the purposes of R.S.43:21-16 and be subject to, in addition to the provisions of this section, all requirements and penalties imposed pursuant to that section for a agent of an employing unit.

Any individual, organization or business which, after notification of the registration requirements of sections 3 though 9 of this act, operates, or attempts to operate, as an authorized agent without the required registration, shall be liable to a fine of $1,000 for each violation, to be recovered in an action at law in the name of the division, and shall not be permitted by the division to represent any party in connection with any communication with, or proceeding of, the division.

C.43:21-6.8 Definitions relative to C.43:21-6.2 et seq.

9. For the purposes of sections 3 through 9 of this act:

"Authorized agent" means an individual, organization or business that, for a fee, provides representation to parties in communications with, or hearings or other proceedings before, representatives of the division in connection with claims for unemployment benefits, charges or tax assessments. In the case of an individual authorized agent representing an organization or business that provides representation to parties for a fee, both the individual and the organization or business shall register with the division and both will be held responsible as the authorized agents. An attorney is not an authorized agent for purposes of this section and is not required to register. If an attorney is employed by, or otherwise provides service to, an organization or business which is an authorized agent, the organization or business shall register with the division and will be considered the authorized agent for purposes of this section. An authorized agent representing an employer shall be regarded as an agent of an employing unit for the purposes of R.S.43:21-16 and be subject to all requirements and penalties imposed by that section for an agent of an employing unit.

"Party" means any of the following parties to an appeal, hearing or other procedure of the division: the division; a claimant for unemployment compensation; or any employer against whom charges may be made or tax liability may be assessed due to the claim for unemployment compensation.

"Representative of the division" means any individual or entity, including any deputy, appeal tribunal, the board of review or any other individual or entity which represents the Division of Unemployment and Temporary Disability Insurance of the Department of Labor and Workforce Development in connection with claims, benefits, charges or taxes for unemployment compensation.

10. This act shall take effect immediately.

Approved October 27, 2010.

CHAPTER 83

AN ACT concerning the transfer of certain municipal free library surplus amounts to municipalities and amending R.S.40:54-15 and P.L.2007, c.62.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. R.S.40:54-15 is amended to read as follows:

Annual report, identification of excess funds to municipality, transfer procedure.

40:54-15. a. The board of trustees shall make an annual report to the chief financial officer of the municipality which shall include a statement setting forth in detail all public revenues received by the library, all State aid received by the library, all expenditures made by the library and the balance of funds available. Notwithstanding the requirements of R.S.40:54-8 pertaining to the amount required to be raised and appropriated for library purposes, the annual report shall identify excess funds that the board is required to approve and transfer to the municipality as miscellaneous revenue. The excess funds transferred shall be any amount that exceeds the sum of the amount of the audited operating expenditures of the library for the most recent available year, plus an additional 20% of those operating expenditures, excluding funds restricted for capital projects and grants, to be maintained as surplus. The annual report shall also include an analysis of the state and condition of the library and shall be sent to the municipal governing body and to the State Library. The State Librarian shall prescribe by regulation the form of all such reports.

b. (1) Except as limited in paragraph (2) of this subsection, the board of trustees of a municipal free library shall adopt a resolution of its intent to transfer excess funds to the municipality, as identified in its annual report pursuant to subsection a. of this section.

(2) The board of trustees of a municipal free library established after the effective date of P.L.2008, c.8 shall not adopt a resolution of intent pursuant to this subsection before the eighth budget year following its establishment.

c. Once the board of trustees has adopted a resolution of intent pursuant to subsection b. of this section, it shall forward the resolution to the State Librarian for approval, along with any other information required by the State Librarian and in accordance with procedures and forms promulgated by the State Librarian in consultation with the Director of the Division of Local Government Services in the Department of Community Affairs. The State Librarian shall approve any resolution upon a determination that all of the following provisions are met:

(1) the municipal free library will still retain a sum equal to the amount of the audited operating expenditures of the library for the most recent

available year plus an additional 20% of that amount, excluding funds restricted for capital projects and grants to be maintained as surplus;

(2) the municipality and the municipal free library are in compliance with all conditions imposed by rule or regulation promulgated by the State Librarian for per capita library aid to public libraries according to the "state library aid law," N.J.S.18A:74-1 et seq., and pertaining to appropriations for the maintenance of a municipal free library according to R.S.40:54-8 or section 2 of P.L.1959, c.155 (C.40:54-29.4) in the case of a joint free public library;

(3) there are sufficient funds remaining in the municipal free library's operating budget for the maintenance of the library for the balance of the fiscal year in which the transfer of funds to the municipality occurs; and

(4) the library board of trustees has a written plan of at least three years that reflects that the long-term funding needs of the library will be met, and that any capital expense will contribute to the provision of efficient and effective library services, and that the written plan has been approved by the State Librarian.

d. Upon approval of its resolution of intent by the State Librarian pursuant to subsection c. of this section, the board of trustees shall cause the amount of the excess funds identified in its resolution to be transferred to the municipality.

2. This act shall take effect immediately.

Approved October 27, 2010.

CHAPTER 84

AN ACT concerning eligibility for assistance under the Catastrophic Illness in Children Relief Fund and amending P.L.1987, c.370.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Section 8 of P.L.1987, c.370 (C.26:2-155) is amended to read as follows:

C.26:2-155 Eligibility.

8. a. A child who is a resident of this State is eligible, through his parent or legal guardian, to apply to the program established pursuant to subsection a. of section 7 of P.L.1987, c.370 (C.26:2-154).

b. In the event a family has more than one child with a catastrophic illness, as defined pursuant to section 2 of P.L.1987, c.370 (C.26:2-149), the commission shall waive the family responsibility, as established by regulation, for the other child if the family has met the family responsibility for the first child in a State fiscal year.

2. This act shall take effect on the 30th day following enactment.

Approved November 3, 2010.

CHAPTER 85

AN ACT designating the highway ramp off of State Highway Route No. 23 at Alps Road in Wayne Township as the "Gregory F. Velardi, Sr., Ramp."

WHEREAS, Gregory F. Velardi, Sr., joined the Property Owner League (P.O.L.) Fire Company No. 2 on February 5, 1956, and has faithfully served the Township of Wayne for over 50 years; and

WHEREAS, During those years, Mr. Velardi served Wayne as a volunteer firefighter and captain in P.O.L. Fire Company No. 2, and in various other capacities, including as a member of two building committees and the Fair Committee; and

WHEREAS, Mr. Velardi continues to be an active member and Trustee of P.O.L. Fire Company No. 2; and

WHEREAS, In addition to being a "Life Member" of his fire company, Mr. Velardi is also a "Life Member" of the New Jersey State Firemen's Association and the New Jersey State Exempt Firemen's Association; and

WHEREAS, It is altogether fitting and proper that the State of New Jersey honor the request of the membership of P.O.L. Fire Company No. 2 that the highway ramp off of State Highway Route No. 23 at Alps Road, which is located near the P.O.L. Fire Company No. 2 quarters, be named the "Gregory F. Velardi, Sr., Ramp" in recognition of his years of dedicated service to the Township of Wayne; now, therefore,

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. The Commissioner of Transportation shall designate the highway ramp off of State Highway Route No. 23 at Alps Road in Wayne Township as the "Gregory F. Velardi, Sr., Ramp" and shall erect appropriate signs bearing this name.

2. No State or other public funds shall be used for producing, purchasing, or erecting signs bearing the designation established pursuant to section 1 of this act. The Commissioner of Transportation is authorized to receive gifts, grants, or other financial assistance from private sources for the purpose of funding or reimbursing the Department of Transportation for the costs associated with producing, purchasing, and erecting signs bearing the designation established pursuant to section 1 of this act and entering into agreements related thereto, with such private sources, including but not limited to non-governmental non-profit, educational or charitable entities or institutions. No work shall proceed, and no funding shall be accepted by the Department of Transportation until an agreement has been reached with a responsible party for paying the costs associated with producing, purchasing, erecting and maintaining the signs.

3. This act shall take effect immediately.

Approved November 3, 2010.

CHAPTER 86

AN ACT establishing the "Blue Ribbon Panel to Review New Jersey's Inmate Policy" and repealing section 11 of P.L.2009, c.329.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. a. There is hereby established the "Blue Ribbon Panel to Review New Jersey's Inmate Policy."

(1) The panel shall be comprised of six members who are residents of this State and who shall have served as judges, prosecutors or public defenders, but are not currently serving as judges, prosecutors, or public defenders. The members of the panel shall be appointed by the Governor, without regard to the appointees' political affiliations, and shall serve during the existence of the panel. Vacancies shall be filled by the Governor.

The members shall be subject to removal by the Governor at any time for good and sufficient cause.

(2) The panel shall organize as soon as possible after the appointment of its members. The members shall elect one of the members to serve as chair and vice-chair and the chair may appoint a secretary, who need not be a member of the panel.

(3) The members of the panel shall serve without compensation, but shall be eligible for reimbursement for necessary and reasonable expenses incurred in the performance of their official duties within the limits of funds appropriated or otherwise made available to the commission for its purposes.

(4) The panel shall be entitled to accept the assistance and services of such employees of any State, county, or municipal department, board, bureau, commission, or agency as may be made available to it and to employ such legal, stenographic, technical, and clerical assistance and incur such expenses as may be necessary in order to perform its duties within the limits of funds appropriated or otherwise made available to it for its purposes.

b. It shall be the duty of the panel to comprehensively review and analyze data on the characteristics of the inmate population in this State's correctional facilities. These characteristics shall include, but not be limited to age, infirmity, ethnicity, gender, health treatment and mental health treatment received, offense committed, race, participation in educational and vocational programs, term of incarceration, and any other characteristic identified by the panel. Data may be obtained from any source deemed appropriate by the panel, including the Department of Corrections, the State Parole Board, or any other State department, board, bureau, commission, or agency, or any other governmental or nongovernmental entity.

c. The panel shall report any legislative or other recommendations concerning correctional policy based on the review and analysis of the inmate population data pursuant to subsection b. of this section to the Legislature and the Governor within two years of the date of appointment of its members. The panel shall expire after its report is issued.

Repealer.

2. Section 11 of P.L.2009, c.329 (C.30:4-123.96) is repealed.

3. This act shall take effect immediately.

Approved November 3, 2010.

CHAPTER 87

AN ACT to eliminate inactive boards, commissions, committees, councils, and task forces, and amending and repealing various parts of the statutory law.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Section 5 of P.L.1977, c.240 (C.24:6E-4) is amended to read as follows:

C.24:6E-4 Definitions.

5. As used in this act unless the context clearly indicates otherwise:

a. "Drug product" means a dosage form containing one or more active therapeutic ingredients along with other substances included during the manufacturing process.

b. "Brand name" means the proprietary name assigned to a drug by the manufacturer thereof.

c. "Established name" with respect to a drug or ingredient thereof, means (1) the applicable official name designated pursuant to the Federal Food, Drug and Cosmetic Act (Title 21, U.S.C. s.301 et seq.), or (2) if there is no such official name and such drug or ingredient is recognized in an official compendium, then the official title thereof in such compendium, except that where a drug or ingredient is recognized in the United States Pharmacopoeia and in the Homeopathic Pharmacopoeia under different official titles, the official title used in the United States Pharmacopoeia shall apply unless it is labeled and offered for sale as a homeopathic drug, in which case the official title used in the Homeopathic Pharmacopoeia shall apply, or (3) if neither (1) nor (2) is applicable, then the common or usual name, if any, of such drug or ingredient.

d. "Prescription" means an order for drugs or combinations or mixtures thereof, written or signed by a duly licensed physician, dentist, veterinarian or other medical practitioner licensed to write prescriptions intended for the treatment or prevention of disease in man or animals, and includes orders for drugs or medicines or combinations or mixtures thereof transmitted to pharmacists through word of mouth, telephone, telegraph or other means of communication by a duly licensed physician, dentist, veterinarian or other medical practitioner licensed to write prescriptions intended for the treatment or prevention of disease in man or animals.

e. "Department" means the Department of Health and Senior Services.

f. "Chemical equivalents" means those drug products that contain the same amounts of the same therapeutically active ingredients in the same dosage forms and that meet present compendial standards.

g. "Reference drug product" means the product which is adopted by the department as the standard for other chemically equivalent drugs in terms of testing for the therapeutic equivalence. In all cases, the reference drug product shall be a currently marketed drug which is the subject of a full (not abbreviated) new drug application approved by the Federal Food and Drug Administration.

h. "Therapeutic equivalents" means chemical equivalents which, when administered to the same individuals in the same dosage regimen, will provide essentially the same efficacy or toxicity as their respective reference drug products.

i. "Bioavailability" means the extent and rate of absorption from a dosage form as reflected by the time-concentration curve of the administered drug in the systemic circulation.

j. "Bioequivalents" means chemical equivalents which, when administered to the same individuals in the same dosage regimen, will result in comparable bioavailability.

k. "Pharmaceutical equivalents" means those drug products that contain the same amounts of the same therapeutically active ingredients in the same dosage form and that meet established standards.

l. "Interchangeable drug products" means pharmaceutical equivalents or bioequivalents that are determined to be therapeutic equivalents by the department.

m. "Present compendial standards" means the official standards for drug excipients and drug products listed in the latest revision of the United States Pharmacopoeia (USP) and the National Formulary (NF).

n. "Dosage form" means the physical formulation or medium in which the product is intended, manufactured and made available for use, including, but not limited to: tablets, capsules, oral solutions, aerosols, inhalers, gels, lotions, creams, ointments, transdermals and suppositories, and the particular form of the above which utilizes a specific technology or mechanism to control, enhance or direct the release, targeting, systemic absorption or other delivery of a dosage regimen in the body.

2. Section 7 of P.L.1977, c.240 (C.24:6E-6) is amended to read as follows:

C.24:6E-6 List of interchangeable drug products.

7. a. The department shall prepare a list of interchangeable drug products. This list shall be periodically reviewed in accordance with a schedule of and procedure for such review as shall be established by the department. In development of the list, distinctions shall be made when: (1) evidence of bioequivalence is considered critical and when it is not; (2) when levels of toxicity are considered critical and when they are not. The list may include interchangeable drug products used by the United States Government and its agencies, where the government or such agency has established the reliability of the drug products interchanged.

b. No drug products shall be included in such list until after a public hearing has been held thereon after at least 20 days' notice. Such notice shall be mailed to every drug company that is authorized to do business in the State of New Jersey and to all persons who have made a timely request of the department for advance notice of its public hearings and shall be published in the New Jersey Register.

c. Manufacturers shall, upon the request of the department, be required to submit any information in their files that relates manufacturing processes and in vivo and in vitro tests to the bioavailability of any drug product. This requirement shall also apply to technical information obtained during research related to the development of new drug products, even when such information bears only an indirect relationship to the final dosage form. The department shall not make such information public when there is a proprietary interest on the part of the manufacturer.

d. Any manufacturer of drug products shall have the right to request the department to evaluate its drug products for the purpose of inclusion on the list of interchangeable drug products, or to request that the department consider removal of any drug product from the list. Any such request shall be accompanied by such information as the department shall require, and any drug product involved shall be evaluated in the same manner and shall be subject to the same procedures and requirements as all other drug products evaluated by the department for inclusion on or removal from the list.

e. Prior to any drug product being approved by the department, the manufacturer shall be required to demonstrate that it has complied with the standards set forth in the Current Good Manufacturing Practices of Title 21 U.S.C. or in such standards relating to drug manufacturing practices as may be promulgated by the department from time to time and must show evidence of a satisfactory inspection by the Federal Food and Drug Administration or the department.

f. The department shall distribute copies of the list of interchangeable drug products and revisions thereof and additions thereto among physicians and other authorized prescribers and licensed pharmacists, and shall supply a copy to any person upon request, upon payment of the price established by the department.

g. The department shall be authorized to adopt reasonable rules and regulations, in accordance with the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to carry out its functions and duties under this act and to effectuate its purposes.

3. Section 35 of P.L.1993, c.139 (C.58:10B-12) is amended to read as follows:

C.58:10B-12 Adoption of remedial standards.

35. a. The Department of Environmental Protection shall adopt minimum remediation standards for soil, groundwater, and surface water quality necessary for the remediation of contamination of real property. The remediation standards shall be developed to ensure that the potential for harm to public health and safety and to the environment is minimized to acceptable levels, taking into consideration the location, the surroundings, the intended use of the property, the potential exposure to the discharge, and the surrounding ambient conditions, whether naturally occurring or man-made.

Until the minimum remediation standards for the protection of public health and safety as described herein are adopted, the department shall apply public health and safety remediation standards for contamination at a site on a case-by-case basis based upon the considerations and criteria enumerated in this section.

The department may not require any person to perform an ecological evaluation of any area of concern that consists of an underground storage tank storing heating oil for on-site consumption in a one to four family residential building.

b. In developing minimum remediation standards the department shall:

(1) base the standards on generally accepted and peer reviewed scientific evidence or methodologies;

(2) base the standards upon reasonable assumptions of exposure scenarios as to amounts of contaminants to which humans or other receptors will be exposed, when and where those exposures will occur, and the amount of that exposure;

(3) avoid the use of redundant conservative assumptions. The department shall avoid the use of redundant conservative assumptions by the use of parameters that provide an adequate margin of safety and which avoid the use of unrealistic conservative exposure parameters and which guidelines make use of the guidance and regulations for exposure assessment developed by the United States Environmental Protection Agency pursuant to the "Comprehensive Environmental Response, Compensation, and Liability Act of 1980," 42 U.S.C. s.9601 et seq. and other statutory authorities as applicable;

(4) where feasible, establish the remediation standards as numeric or narrative standards setting forth acceptable levels or concentrations for particular contaminants; and

(5) consider and utilize, in the absence of other standards used or developed by the Department of Environmental Protection and the United States Environmental Protection Agency, the toxicity factors, slope factors for carcinogens and reference doses for non-carcinogens from the United States Environmental Protection Agency's Integrated Risk Information System (IRIS).

c. (1) The department shall develop residential and nonresidential soil remediation standards that are protective of public health and safety. For contaminants that are mobile and transportable to groundwater or surface water, the residential and nonresidential soil remediation standards shall be protective of groundwater and surface water. Residential soil remediation standards shall be set at levels or concentrations of contamination for real property based upon the use of that property for residential or similar uses and which will allow the unrestricted use of that property without the need of engineering devices or any institutional controls and without exceeding a health risk standard greater than that provided in subsection d. of this section. Nonresidential soil remediation standards shall be set at levels or concentrations of contaminants that recognize the lower likelihood of exposure to contamination on property that will not be used for residential or similar uses, which will allow for the unrestricted use of that property for nonresidential purposes, and that can be met without the need of engineering controls. Whenever real property is remediated to a nonresidential soil remediation standard, except as otherwise provided in paragraph (3) of subsection g. of this section, the department shall require, pursuant to section 36 of P.L.1993, c.139 (C.58:10B-13), that the use of the property be restricted to nonresidential or other uses compatible with the extent of the contamination of the soil and that access to that site be restricted in a manner compatible with the allowable use of that property.

(2) The department may develop differential remediation standards for surface water or groundwater that take into account the current, planned, or potential use of that water in accordance with the "Clean Water Act" (33 U.S.C. s.1251 et seq.) and the "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.).

d. The department shall develop minimum remediation standards for soil, groundwater, and surface water intended to be protective of public health and safety taking into account the provisions of this section. In developing these minimum health risk remediation standards the department shall identify the hazards posed by a contaminant to determine whether exposure to that contaminant can cause an increase in the incidence of an adverse health effect and whether the adverse health effect may occur in humans. The department shall set minimum soil remediation health risk standards for both residential and nonresidential uses that:

(1) for human carcinogens, as categorized by the United States Environmental Protection Agency, will result in an additional cancer risk of one in one million;

(2) for noncarcinogens, will limit the Hazard Index for any given effect to a value not exceeding one.

The health risk standards established in this subsection are for any particular contaminant and not for the cumulative effects of more than one contaminant at a site.

e. Remediation standards and other remediation requirements established pursuant to this section and regulations adopted pursuant thereto shall apply to remediation activities required pursuant to the "Spill Compensation and Control Act," P.L.1976, c.141 (C.58:10-23.11 et seq.), the "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.), P.L.1986, c.102 (C.58:10A-21 et seq.), the "Industrial Site Recovery Act," P.L.1983, c.330 (C.13:1K-6 et al.), the "Solid Waste Management Act," P.L.1970, c.39 (C.13:1E-1 et seq.), the "Comprehensive Regulated Medical Waste Management Act," sections 1 through 25 of P.L.1989, c.34 (C.13:1E-48.1 et seq.), the "Major Hazardous Waste Facilities Siting Act," P.L.1981, c.279 (C.13:1E-49 et seq.), the "Sanitary Landfill Facility Closure and Contingency Fund Act," P.L.1981, c.306 (C.13:1E-100 et seq.), the "Regional Low-Level Radioactive Waste Disposal Facility Siting Act," P.L.1987, c.333 (C.13:1E-177 et seq.), or any other law or regulation by which the State may compel a person to perform remediation activities on contaminated property. However, nothing in this subsection shall be construed to limit the authority of the department to establish discharge limits for pollutants or to prescribe penalties for violations of those limits pursuant to

P.L.1977, c.74 (C.58:10A-1 et seq.), or to require the complete removal of nonhazardous solid waste pursuant to law.

f. (1) A person performing a remediation of contaminated real property, in lieu of using the established minimum soil remediation standard for either residential use or nonresidential use adopted by the department pursuant to subsection c. of this section, may submit to the department a request to use an alternative residential use or nonresidential use soil remediation standard. The use of an alternative soil remediation standard shall be based upon site specific factors which may include (1) physical site characteristics which may vary from those used by the department in the development of the soil remediation standards adopted pursuant to this section; or (2) a site specific risk assessment. If a person performing a remediation requests to use an alternative soil remediation standard based upon a site specific risk assessment, that person shall demonstrate to the department that the requested deviation from the risk assessment protocol used by the department in the development of soil remediation standards pursuant to this section is consistent with the guidance and regulations for exposure assessment developed by the United States Environmental Protection Agency pursuant to the "Comprehensive Environmental Response, Compensation, and Liability Act of 1980," 42 U.S.C.s.9601 et seq. and other statutory authorities as applicable. A site specific risk assessment may consider exposure scenarios and assumptions that take into account the form of the contaminant present, natural biodegradation, fate and transport of the contaminant, available toxicological data that are based upon generally accepted and peer reviewed scientific evidence or methodologies, and physical characteristics of the site, including, but not limited to, climatic conditions and topographic conditions. Nothing in this subsection shall be construed to authorize the use of an alternative soil remediation standard in those instances where an engineering control is the appropriate remedial action, as determined by the department, to prevent exposure to contamination.

Upon a determination by the department that the requested alternative remediation standard satisfies the department's regulations, is protective of public health and safety, as established in subsection d. of this section, and is protective of the environment pursuant to subsection a. of this section, the alternative residential use or nonresidential use soil remediation standard shall be approved by the department. The burden to demonstrate that the requested alternative remediation standard is protective rests with the person requesting the alternative standard and the department may require the submission of any documentation as the department determines to be necessary in order for the person to meet that burden.

(2) The department may, upon its own initiative, require an alternative remediation standard for a particular contaminant for a specific real property site, in lieu of using the established minimum residential use or nonresidential use soil remediation standard adopted by the department for a particular contaminant pursuant to this section. The department may require an alternative remediation standard pursuant to this paragraph upon a determination by the department, based on the weight of the scientific evidence, that due to specific physical site characteristics of the subject real property, including, but not limited to, its proximity to surface water, the use of the adopted residential use or nonresidential use soil remediation standards would not be protective, or would be unnecessarily overprotective, of public health or safety or of the environment, as appropriate.

g. The development, selection, and implementation of any remediation standard or remedial action shall ensure that it is protective of public health, safety, and the environment, as applicable, as provided in this section. In determining the appropriate remediation standard or remedial action that shall occur at a site, the department and any person performing the remediation, shall base the decision on the following factors:

(1) Unrestricted use remedial actions, limited restricted use remedial actions and restricted use remedial actions shall be allowed except that unrestricted use remedial actions and limited restricted use remedial actions shall be preferred over restricted use remedial actions. For any remediation initiated one year after the date of enactment of P.L.2009, c.60 (C.58:10C-1 et al.), the department shall require the use of an unrestricted use remedial action, or a presumptive remedy or an alternative remedy as provided in paragraph (10) of this subsection, at a site or area of concern where new construction is proposed for residential purposes, for use as a child care center licensed pursuant to P.L.1983, c.492 (C.30:5B-1 et seq.), or as a public school or private school as defined in N.J.S.18A:1-1, as a charter school established pursuant to P.L.1995, c.426 (C.18A:36A-1 et seq.), or where there will be a change in the use of the site to residential, child care, or public school, private school, or charter school purposes or another purpose that involves use by a sensitive population. For any remediation initiated on or after the date of enactment of P.L.2009, c.60 (C.58:10C-1 et al.), the department may require the use of an unrestricted use remedial action or a presumptive remedy as provided in guidelines adopted pursuant to paragraph (10) of this subsection for a site or area of concern that is to be used for residential, child care, or public school, private school, or charter school purposes or another purpose that involves use by a sensitive population. Except as provided in this subsection, and section 27 of P.L.2009, c.60

(C.58:10C-27), the department, however, may not disapprove the use of a restricted use remedial action or a limited restricted use remedial action so long as the selected remedial action meets the health risk standard established in subsection d. of this section, and where, as applicable, is protective of the environment. Except as provided in this subsection and section 27 of P.L.2009, c.60 (C.58:10C-27), the choice of the remedial action to be implemented shall be made by the person responsible for conducting the remediation in accordance with regulations adopted by the department and that choice of the remedial action shall be approved by the department if all the criteria for remedial action selection enumerated in this section, as applicable, are met. Except as provided in section 27 of P.L.2009, c.60 (C.58:10C-27), the department may not require a person to compare or investigate any alternative remedial action as part of its review of the selected remedial action. The department may disapprove the selection of a remedial action for a site on which the proposed remedial action will render the property unusable for future redevelopment or for recreational use;

(2) Contamination may, upon the department's approval, be left onsite at levels or concentrations that exceed the minimum soil remediation standards for residential use if the implementation of institutional or engineering controls at that site will result in the protection of public health, safety and the environment at the health risk standard established in subsection d. of this section, if the requirements established in subsections a., b., c. and d. of section 36 of P.L.1993, c.139 (C.58:10B-13), and paragraphs (1) and (10) of this subsection, are met. The department may also require the treatment or removal of contaminated material that would pose an acute health or safety hazard in the event of failure of an engineering control;

(3) Real property on which there is soil that has not been remediated to the residential soil remediation standards, or real property on which the soil, groundwater, or surface water has been remediated to meet the required health risk standard by the use of engineering or institutional controls, may be developed or used for residential purposes, or for any other similar purpose, if (a) all areas of that real property at which a person may come into contact with soil are remediated to meet the residential soil remediation standards, (b) it is clearly demonstrated that for all areas of the real property, other than those described in subparagraph (a) above, engineering and institutional controls can be implemented and maintained on the real property sufficient to meet the health risk standard as established in subsection d. of this section, and (c) a presumptive remedy established and approved by the department pursuant to paragraph (10) of this subsection, or an alternative remedy approved by the department pursuant to paragraph

(10) of this subsection, has been approved, as provided in paragraphs (1) and (10) of this subsection;

(4) Remediation shall not be required beyond the regional natural background levels for any particular contaminant. The department shall develop regulations that set forth a process to identify background levels of contaminants for a particular region. For the purpose of this paragraph "regional natural background levels" means the concentration of a contaminant consistently present in the environment of the region of the site and which has not been influenced by localized human activities;

(5) Remediation shall not be required of the owner or operator of real property for contamination coming onto the site from another property owned and operated by another person, unless the owner or operator is the person who is liable for cleanup and removal costs pursuant to P.L.1976, c.141 (C.58:10-23.11 et seq.);

(6) Groundwater that is contaminated shall not be required to be remediated to a level or concentration for any particular contaminant lower than the level or concentration that is migrating onto the property from another property owned and operated by another person;

(7) The technical performance, effectiveness and reliability of the proposed remedial action in attaining and maintaining compliance with applicable remediation standards and required health risk standards shall be considered. In reviewing a proposed remedial action, the department or the licensed site remediation professional shall also consider the ability of the owner or operator to implement the proposed remedial action within a reasonable time frame without jeopardizing public health, safety or the environment;

(8) The use of a remedial action for soil contamination that is determined by the department to be effective in its guidance document created pursuant to section 38 of P.L.1993, c.139 (C.58:10B-14), is presumed to be an appropriate remedial action if it is to be implemented on a site in the manner described by the department in the guidance document and applicable regulations and if all of the conditions for remedy selection provided for in this section are met. The burden to prove compliance with the criteria in the guidance document is with the person responsible for conducting the remediation;

(9) (Deleted by amendment, P.L.1997, c.278);

(10) The department shall, by rule or regulation, establish presumptive remedies, use of which shall be required on any site or area of concern to be used for residential purposes, as a child care center licensed pursuant to P.L.1983, c.492 (C.30:5B-1 et seq.), as a public school or private school as

defined in N.J.S.18A:1-1, or as a charter school established pursuant to P.L.1995, c.426 (C.18A:36A-1 et seq.). The department may also issue guidelines that provide for presumptive remedies that may be required as provided in paragraph (1) of this subsection, on a site to be used for residential purposes, as a child care center, or as a public school, private school or charter school. The presumptive remedies shall be based on the historic use of the property, the nature and extent of the contamination at the site, the future use of the site and any other factors deemed relevant by the department. The department may include the use of engineering and institutional controls in the presumptive remedies authorized pursuant to this subsection. If the person responsible for conducting the remediation demonstrates to the department that the use of an unrestricted use remedial action or a presumptive remedy is impractical due to conditions at the site, or that an alternative remedy would be equally protective over time as a presumptive remedy, then an alternative remedy for the site that is protective of the public health and safety may be proposed for review and approval by the department;

(11) The department may authorize a person conducting a remediation to divide a contaminated site into one or more areas of concern. For each area of concern, a different remedial action may be selected provided the requirements of this subsection are met and the remedial action selected is consistent with the future use of the property; and

(12) The construction of single family residences, public schools, private schools, or charter schools, or child care centers shall be prohibited on a landfill that undergoes a remediation if engineering controls are required for the management of landfill gas or leachate.

The burden to demonstrate that a remedial action is protective of public health, safety and the environment, as applicable, and has been selected in conformance with the provisions of this subsection is with the person responsible for conducting the remediation.

The department may require the person responsible for conducting the remediation to supply the information required pursuant to this subsection as is necessary for the department to make a determination.

h. (1) The department shall adopt regulations which establish a procedure for a person to demonstrate that a particular parcel of land contains large quantities of historical fill material. Upon a determination by the department that large quantities of historic fill material exist on that parcel of land, there is a rebuttable presumption that the department shall not require any person to remove or treat the fill material in order to comply with applicable health risk or environmental standards. In these areas the depart-

ment shall establish by regulation the requirement for engineering or institutional controls that are designed to prevent exposure of these contaminants to humans, that allow for the continued use of the property, that are less costly than removal or treatment, which maintain the health risk standards as established in subsection d. of this section, and, as applicable, are protective of the environment. The department may rebut the presumption only upon a finding by the preponderance of the evidence that the use of engineering or institutional controls would not be effective in protecting public health, safety, and the environment. The department may not adopt any rule or regulation that has the effect of shifting the burden of rebutting the presumption. For the purposes of this paragraph "historic fill material" means generally large volumes of non-indigenous material, no matter what date they were emplaced on the site, used to raise the topographic elevation of a site, which were contaminated prior to emplacement and are in no way connected with the operations at the location of emplacement and which include, but are not limited to, construction debris, dredge spoils, incinerator residue, demolition debris, fly ash, and non-hazardous solid waste. Historic fill material shall not include any material which is substantially chromate chemical production waste or any other chemical production waste or waste from processing of metal or mineral ores, residues, slags or tailings.

(2) The department shall develop recommendations for remedial actions in large areas of historic industrial contamination. These recommendations shall be designed to meet the health risk standards established in subsection d. of this section, and to be protective of the environment and shall take into account the industrial history of these sites, the extent of the contamination that may exist, the costs of remedial actions, the economic impacts of these policies, and the anticipated uses of these properties. The department shall issue a report to the Senate Environment Committee and to the Assembly Environment and Solid Waste Committee, or their successors, explaining these recommendations and making any recommendations for legislative or regulatory action.

(3) The department may not, as a condition of allowing the use of a nonresidential use soil remediation standard, or the use of institutional or engineering controls, require the owner of that real property, except as provided in section 36 of P.L.1993, c.139 (C.58:10B-13), to restrict the use of that property through the filing of a deed easement, covenant, or condition.

i. The department may not require a remedial action workplan to be prepared or implemented or engineering or institutional controls to be imposed upon any real property unless sampling performed at that real prop-

erty demonstrates the existence of contamination above the applicable remediation standards.

j. Upon the approval by the department or by a licensed site remediation professional of a remedial action workplan, or similar plan that describes the extent of contamination at a site and the remedial action to be implemented to address that contamination, the department may not subsequently require a change to that workplan or similar plan in order to compel a different remediation standard due to the fact that the established remediation standards have changed; however, the department may compel a different remediation standard if the difference between the new remediation standard and the remediation standard approved in the workplan or other plan differs by an order of magnitude. The limitation to the department's authority to change a workplan or similar plan pursuant to this subsection shall only apply if the workplan or similar plan is being implemented in a reasonable timeframe, as may be indicated in the approved remedial action workplan or similar plan.

k. Notwithstanding any other provisions of this section, all remediation standards and remedial actions that involve real property located in the Pinelands area shall be consistent with the provisions of the "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.), any rules and regulations promulgated pursuant thereto, and with section 502 of the "National Parks and Recreation Act of 1978," 16 U.S.C. s.471i; and all remediation standards and remedial actions that involve real property located in the Highlands preservation area shall be consistent with the provisions of the "Highlands Water Protection and Planning Act," P.L.2004, c.120 (C.13:20-1 et al.), and any rules and regulations and the Highlands regional master plan adopted pursuant thereto.

l. Upon the adoption of a remediation standard for a particular contaminant in soil, groundwater, or surface water pursuant to this section, the department may amend that remediation standard only upon a finding that a new standard is necessary to maintain the health risk standards established in subsection d. of section 35 of P.L.1993, c.139 (C.58:10B-12) or to protect the environment, as applicable. The department may not amend a public health based soil remediation standard to a level that would result in a health risk standard more protective than that provided for in subsection d. of section 35 of P.L.1993, c.139 (C.58:10B-12).

m. Nothing in P.L.1993, c.139 shall be construed to restrict or in any way diminish the public participation which is otherwise provided under the provisions of the "Spill Compensation and Control Act," P.L.1976, c.141 (C.58:10-23.11 et seq.).

n. Notwithstanding any provision of subsection a. of section 36 of P.L.1993, c.139 (C.58:10B-13) to the contrary, the department may not require a person intending to implement a remedial action at an underground storage tank facility storing heating oil for on-site consumption at a one to four family residential dwelling to provide advance notice to a municipality prior to implementing that remedial action.

o. A person who has remediated a site pursuant to the provisions of this section, who was liable for the cleanup and removal costs of that discharge pursuant to the provisions of paragraph (1) of subsection c. of section 8 of P.L.1976, c.141 (C.58:10-23.11g), and who remains liable for the discharge on that site due to a possibility that a remediation standard may change, undiscovered contamination may be found, or because an engineering control was used to remediate the discharge, shall maintain with the department a current address at which that person may be contacted in the event additional remediation needs to be performed at the site. The requirement to maintain the current address shall be made part of the conditions of the permit issued pursuant to section 19 of P.L.2009, c.60 (C.58:10C-19) and the final remediation document.

4. Section 1 of P.L.2003, c.112 (C.17B:30-41) is amended to read as follows:

C.17B:30-41 Findings, declarations relative to collection of unpaid hospital accounts.

1. The Legislature finds and declares that:

a. The rising cost of hospital-based health care in this State impedes the ability of the State and insurers to provide reasonably priced, comprehensive health insurance to the citizens of the State.

b. Hospitals located within the State report more than $1 billion annually in debts that they are unable to collect.

c. The cost of covering the unpaid care represented by the debt is spread among citizens, private insurers, hospitals and the State in the form of higher bills for hospital-based care.

d. A significant portion of the uncollected debt is related to copayments and deductibles that are difficult for hospitals to collect efficiently.

e. The State's Set off of Individual Liability (SOIL) program has proven to be an administratively efficient means of collecting debts owed to State agencies.

f. It is, therefore, in the public interest to create a system for using the State's SOIL program to collect valid hospital debts.

5. Section 2 of P.L.2003, c.112 (C.17B:30-42) is amended to read as follows:

C.17B:30-42 Definitions relative to collection of unpaid hospital accounts.

2. As used in this act:

"Coinsurance" means the percentage of a charge covered by a health plan that must be paid by a person covered under the health plan.

"Collection agency" means the Department of the Treasury and any company, agency or law firm engaged in collecting debts that the Department of the Treasury may determine to engage to assist it in collecting debts.

"Debt" means money owed by a patient to a hospital, or by someone who is legally responsible for payment for a patient, and includes late payment penalties and interest thereon. It does not include monies owed to a hospital by a health plan for services provided by the hospital to a person with coverage under that plan, or amounts subject to dispute between a health plan and a hospital.

"Debtor" means an individual owing money to or having a delinquent account with a hospital, which obligation has not been adjudicated, satisfied by court order, set aside by court order or discharged in bankruptcy.

"Deductible" means the amount of covered charges under a health plan that an individual must pay for services before a health plan begins to pay on a covered charge.

"Department" means the Department of Health and Senior Services.

"General Hospital" and "hospital" have the meanings set forth in N.J.A.C.8:43G-1.2.

"Health plan" means an individual or group health benefits plan that provides or pays the cost of hospital and medical expenses, dental or vision care, or prescription drugs, and is provided by or through an insurer, health maintenance organization, the Medicaid program, the Medicare program, a Medicare+Choice provider or Medicare supplemental insurer, an employer-sponsored group health benefits plan, government or church-sponsored health benefits plan or a multi-employer welfare arrangement.

"Medicaid" means the program established pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.).

"Medicare" means the program established by Pub.L.89-97 (42 U.S.C. s.1395 et seq.) as amended, or its successor plan or plans.

"Patient" means a person who receives services in a hospital on an inpatient or outpatient basis.

6. Section 4 of P.L.2003, c.112 (C.17B:30-44) is amended to read as follows:

C.17B:30-44 "New Jersey Hospital Care Payment Fund."

4. a. There is established the "New Jersey Hospital Care Payment Fund" in the Department of the Treasury.

b. The fund shall be comprised of monies collected from debtors of hospitals pursuant to this act, and any other monies appropriated thereto to carry out the purposes of this act.

c. The fund shall be a nonlapsing fund, from which costs shall be paid in the following order, for each hospital participating:

(1) administrative costs of the department to implement the provisions of P.L.2003, c.112 (C.17B:30-41 et seq.);

(2) administrative fees to the collection agency;

(3) 50% of the remainder, but only from monies collected from debtors of hospitals pursuant to this act after paragraphs (1) and (2) of this subsection are paid, shall be payable to the hospital from which the debt originated within 90 days of receipt of monies related to discharge of the assigned debt into the fund; and

(4) the remainder, after paragraphs (1), (2) and (3) of this subsection are paid, shall be deposited into the General Fund.

7. Section 5 of P.L.2003, c.112 (C.17B:30-45) is amended to read as follows:

C.17B:30-45 Authority of department.

5. The department is authorized to:

a. Accept assignment of debts from hospitals which have followed the procedures outlined in section 7 of this act, or such other procedures as the department shall adopt.

b. Pursue collection of debts pursuant to this act. The department shall initiate the program in phases. The first phase may involve acceptance of assignment of debt that:

(1) derives from a limited number of hospitals;

(2) consists of coinsurance and deductibles that remain payable after adjudication by a health plan;

(3) is assigned by a general hospital;

(4) is less than two years old at the date of assignment to the department, as determined by the date of discharge for inpatient services and date of service for outpatient services;

(5) involves any of the above or any combination of the above, or includes such other limitations as the department determines are desirable to smooth implementation of the program created by this act.

After the first phase, the department may expand acceptance of assignments as it shall determine pursuant to this act.

c. Test assignment data received from the hospitals to determine whether the records are sufficient to make set-off practicable, and return records that do not pass the test to the hospitals.

d. Conduct such fact-finding, as is necessary, in preparation for making a determination as to the validity of debts.

e. Make final determinations as to the validity of debts.

f. Determine the payment to be collected from the debtor, based upon a "fairness formula" to be determined by the department. For debt processed by the department during the fiscal year starting on July 1, 2003, the fairness formula shall be based upon the department's report entitled "Net Patient Revenue to Charge Ratio," for the most recent year available. For debt processed by the department during the fiscal year starting on July 1, 2004 and thereafter, the fairness formula shall be based upon the most recent available "Net Patient Revenue to Charge Ratio" report, or such other measure as the department determines would most fairly reimburse hospitals for treatment.

g. Offset liability for the hospital debts against the New Jersey Gross Income Tax pursuant to N.J.S.54A:1-1 et seq., including an earned income tax credit provided as a refund pursuant to P.L.2000, c.80 (C.54A:4-6 et al.), or whenever any individual is eligible to receive an NJ SAVER rebate or a homestead rebate pursuant to P.L.1990, c.61 (C.54:4-8.57 et al.) or P.L.1999, c.63 (C.54:4-8.58a et al.), and if the rebate is not required to be paid over to the municipal tax collector under the provisions of section 8 of P.L.1990, c.61 (C.54:4-8.64), and including any other financial resource authorized as a source capable of offset for any reason by section 1 of P.L.1981, c.239 (C.54A:9-8.1 et seq.).

h. Adjudicate the validity of all set-off challenges pursuant to N.J.A.C.18:35-10.1 et seq.

i. Make such decisions as to compromise and waiver of interest, penalties, post-judgment interest and write-off as it shall deem prudent.

j. Refer assigned debts under section 7 of this act to a collection agency in the event that offsetting is not practical or is not successful in fully resolving the debt.

k. Create standards for settlement of debts through the collection agency process.

l. Determine to cease accepting debt from a hospital until such time as the hospital can demonstrate to the satisfaction of the department that its accuracy has improved to acceptable levels where the department determines that data forwarded by a hospital to the department has an unacceptable level of inaccuracies regarding validity or quality of the debt forwarded to the department.

m. Contract with other State agencies for services, including administrative services necessary to carry out the duties of the department.

n. Fund the cost of its operations from the fund created by section 4 of this act.

o. Adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to effectuate the purposes of this act; except that, notwithstanding any provision of P.L.1968, c.410 to the contrary, the department may adopt, immediately upon filing with the Office of Administrative Law, such regulations as the department deems necessary to implement the provisions of this act, which shall be effective for a period not to exceed six months and may thereafter be amended, adopted or readopted by the department in accordance with the requirements of P.L.1968, c.410.

8. Section 6 of P.L.2003, c.112 (C.17B:30-46) is amended to read as follows:

C.17B:30-46 Decisions of department constitute final agency action.

6. Decisions of the department, regarding the fairness formula, the validity of debts, the adequacy of data provided to the department by hospitals for use in the program, and other such matters as shall arise concerning the administration of the program, shall constitute final agency action.

9. Section 7 of P.L.2003, c.112 (C.17B:30-47) is amended to read as follows:

C.17B:30-47 Procedures for participating hospitals.

7. a. The following procedures shall apply for those hospitals that wish to participate in the voluntary assignment program created by this act.

b. The hospital shall file with the department a notice signifying its intent to participate voluntarily and certifying the following:

(1) the hospital has determined that the patient is not eligible for charity care under the New Jersey Hospital Care Payment Assistance Program established by the Department of Health and Senior Services pursuant to section 10 of P.L.1992, c.160 (C.26:2H-18.60);

(2) the hospital has submitted a "clean claim" pursuant to P.L.1999, c.154 (C.17B:30-23 et al.) and P.L.1999, c.155 (C.17B:30-26 et seq.) to the patient, a responsible party, Medicaid, Medicare or a health plan, as applicable, within a reasonable time following the patient's discharge, or in the case of outpatient service, the date of service;

(3) the claims have been fully adjudicated by a health plan, Medicare or Medicaid, where applicable, and a debt remains outstanding;

(4) the hospital has not initiated collection procedures against the patient or responsible party while a claim was pending adjudication with Medicare or a health plan, for which a debt remains outstanding;

(5) the hospital has notified the patient of the hospital's intention, if the account is not paid in full, or alternatively through a payment plan with the hospital, to proceed with legal action, or to turn the bill over to the department for collection.

c. Nothing herein shall be deemed to create any new right to collection of hospital debts by hospitals beyond existing law; nor shall it be deemed to preclude any existing right to collection.

d. The department may determine the content of the notice required by paragraph (5) of subsection b. of this section to the patient concerning the likelihood that the account will be turned over to the department for collection.

e. The minimum amount of an unpaid bill that may be assigned to the department by a hospital is $100, or such other minimum as the department shall determine by regulation.

f. Upon receipt of the voluntary assignment, the Department of the Treasury shall send, on behalf of the department, a notice to the person named as a debtor of the hospital, notifying the person as to receipt of the assignment by the department, providing the person with 30 days to challenge the validity of the debt, and providing notice that in the absence of such challenge, a Certificate of Debt will be filed with the Superior Court of New Jersey. The notice shall also include a statement on the department's intention to take action to set off the liability against any refund of taxes pursuant to the "New Jersey Gross Income Tax Act" including an earned income tax credit, a NJ SAVER rebate or a homestead rebate, or other such funds as may be authorized by law.

g. If the person named as a debtor responds within the 30-day period, the person shall be provided with an opportunity to present, either in writing or in person, evidence as to why the person does not believe he is responsible for the debt. The department shall provide written notice to both the person and the hospital as to its determination regarding the validity of

the debt, including the imposition of collection fees and interest, if applicable.

h. If the person fails to respond within 30 days to the department, the department may utilize the provisions of the Set off of Individual Liability (SOIL) program established pursuant to P.L.1981, c.239 (C.54A:9-8.1 et seq.), to collect any surcharge levied under this section that is unpaid on or after the effective date of this act.

As additional remedies, the department may utilize the services of a collection agency to settle the debt and may also issue a certificate to the Clerk of the Superior Court stating that the person identified in the certificate is indebted under this law in such amount as shall be stated in the certificate. The certificate shall reference this act. Thereupon the clerk to whom such certificate shall have been issued shall immediately enter upon the record of docketed judgments: the name of the person as debtor; the State as creditor; the address of the person, if shown in the certificate; the amount of the debt so certified; a reference to this act under which the debt is assessed; and the date of making the entries. The docketing of the entries shall have the same force and effect as a civil judgment docketed in the Superior Court, and the department shall have all the remedies and may take all of the proceedings for the collection thereof which may be had or taken upon the recovery of a judgment in an action, but without prejudice to any right of appeal. Upon entry by the clerk of the certificate in the record of docketed judgments in accordance with this provision, interest in the amount specified by the court rules for post-judgment interest shall accrue from the date of the docketing of the certificate; however, payment of the interest may be waived by the department.

i. Any collection efforts undertaken pursuant to this act shall be undertaken in accordance with the "Health Insurance Portability and Accountability Act of 1996," Pub.L.104-191 and 45 C.F.R. 160.101 to 164.534, or any other similar law. The department and any other entity performing collection activities pursuant to this act is authorized to enter into any agreements required to comply with such laws, including, but not limited to, entering into agreements with the hospitals and collection agencies to provide for appropriate safeguarding of information.

10. Section 1 of P.L.2001, c.192 (C.52:9YY-1) is amended to read as follows:

C.52:9YY-1 Short title.

1. This act shall be known and may be cited as the "Health Data Act."

11. Section 2 of P.L.2001, c.192 (C.52:9YY-2) is amended to read as follows:

C.52:9YY-2 Findings, declarations relative to availability of health data.

2. The Legislature finds and declares that:

a. It is the intention of the Legislature to establish a single point of contact for members of the public to obtain health data;

b. The purpose of this initiative is to compile health care access, quality and cost data produced within the State from public and private entities and maximize the usefulness of the data for the public without duplicating existing data collection efforts by State agencies; and

c. It is anticipated that the expense to the State of compiling and disseminating the available and useful health data for the benefit of the public will be minimal and will be partially offset by subscriptions to routinely published documents of the Department of Health and Senior Services, the purchase of special reports of the Department of Health and Senior Services, and the receipt of grants to provide health data information to the public.

12. Section 3 of P.L.2001, c.192 (C.52:9YY-3) is amended to read as follows:

C.52:9YY-3 Definitions relative to availability of health data.

3. As used in this act:

"Department" means the Department of Health and Senior Services.

"Disclosure" means the disclosure of health data to a person or entity outside the department.

"Health data" means any information, except vital statistics as defined in R.S.26:8-1, relating to the health status of people, the availability of health care resources and services, or the use and cost of these resources and services. Health data shall not include information that is created or received by members of the clergy or others who use spiritual means alone for healing.

"Identifiable health data" means any item, collection or grouping of health data which makes the person supplying it or described in it identifiable.

"Research and statistical purposes" means the performance of certain activities relating to health data, including, but not limited to: describing the group characteristics of persons or entities; analyzing the interrelationships among various characteristics of persons or entities; the conduct of statistical procedures or studies to improve the quality of health data; the design of sample surveys and the selection of samples of persons or entities; the

preparation and publication of reports describing these activities; and other related functions; but excluding the use of health data for a person or entity to make a determination directly affecting the rights, benefits or entitlements of that person or entity.

13. Section 5 of P.L.2001, c.192 (C.52:9YY-5) is amended to read as follows:

C.52:9YY-5 Duties of the department.

5. a. The department may:

(1) collect and maintain health data from State government agencies or other entities on:

(a) the extent, nature and impact of illness and disability on the population of the State;

(b) the determinants of health and health hazards;

(c) health resources, including the extent of available personnel and resources;

(d) utilization of health care;

(e) health care costs and financing; and

(f) other health-related matters;

(2) undertake and support research, demonstrations and evaluations concerning new or improved methods for obtaining current data with respect to any of the health data described in paragraph (1) of this subsection; and

(3) promote standards for health data that will facilitate the comparison of information and ease the burden of data preparation and reporting.

b. The department may collect health data on behalf of other entities.

c. The department shall collect health data only on a voluntary basis from persons and entities, except to the extent that specific statutory authority exists to compel the reporting of such data. When requesting health data from a person or entity, the agency shall notify the person or entity in writing as to the following:

(1) whether the person or entity is required to supply the health data and any sanctions which may be imposed for noncompliance;

(2) the purposes for which the health data is being collected; and

(3) if the department intends to disclose identifiable health data for other than research and statistical purposes, the information to be disclosed, to whom it is to be disclosed, and for what purposes.

d. No health data obtained by the department under this section may be used for any purpose other than the purpose for which they were sup-

plied or for which the person or entity described in the data has otherwise consented.

e. The department shall:

(1) take such actions as may be necessary to assure that the health data which it obtains and maintains are accurate, timely and comprehensive, as well as specific, standardized and adequately analyzed and indexed; and

(2) publish, disseminate and otherwise make available these data on as wide a basis as practicable.

f. The department shall take such actions as are appropriate to effect the collection and compilation of health data produced within the State and to maximize the usefulness of the data collected.

g. The department shall:

(1) participate with federal, State and local government agencies in the design and implementation of a cooperative system of producing comparable and uniform health data at the federal, State and local levels;

(2) undertake and support research, development, demonstrations and evaluations concerning such a cooperative system; and

(3) assume its fair share of the data costs associated with implementing and maintaining such a system.

14. Section 6 of P.L.2001, c.192 (C.52:9YY-6) is amended to read as follows:

C.52:9YY-6 Disclosure of health data, conditions.

6. a. The department shall make no disclosure of any health data which identifies a person's health status or utilization of health care unless the person described in the data has consented to the disclosure.

b. A person or entity to whom the department has disclosed health data shall make no disclosure of any health data which identifies a person's health status or utilization of health care unless the person described in the data has consented to the disclosure.

c. No identifiable health data obtained by the department shall be subject to subpoena or similar compulsory process in a civil or criminal, judicial, administrative or legislative proceeding, nor shall a person or entity with lawful access to identifiable health data pursuant to this act be compelled to testify with regard to that data; except that data pertaining to a party in litigation may be subject to subpoena or similar compulsory process in an action brought by or on behalf of that party to enforce a liability arising under this act.

15. Section 7 of P.L.2001, c.192 (C.52:9YY-7) is amended to read as follows:

C.52:9YY-7 Security of health data.

7. The department shall take appropriate measures to protect the security of health data which it obtains, including:

a. limiting access to the data to authorized persons;

b. designating a person to be responsible for the physical security of the data;

c. developing and implementing a system for monitoring the security of the data;

d. periodically reviewing all health data to evaluate whether it is appropriate to remove identifying characteristics from the data; and

e. developing a program for the routine scheduled destruction of all forms, records or electronic files maintained by the department which contain identifiable health data.

16. Section 8 of P.L.2001, c.192 (C.52:9YY-8) is amended to read as follows:

C.52:9YY-8 Additional powers of department.

8. To effectuate the purposes of P.L.2001, c.192 (C.52:9YY-1 et seq.), and in addition to any other powers authorized by law, the department shall have the authority, in accordance with State law, to:

a. make and enter into contracts to purchase services and supplies and to hire consultants;

b. develop and submit a proposed budget;

c. accept gifts and charitable contributions;

d. apply for, receive and expend grants;

e. adopt regulations, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate the purposes of this act;

f. establish charges for and collect payment from persons and entities for the provision of services, including the dissemination of health data;

g. receive and expend appropriations;

h. enter into a reimbursable work program with other State government agencies or private entities under which funds are transferred from the other agencies or entities to the department for the performance of activities pursuant to this act; and

i. provide such other services and perform such other functions as the department deems necessary to fulfill its responsibilities under this act.

17. Section 9 of P.L.2001, c.192 (C.52:9YY-9) is amended to read as follows:

C.52:9YY-9 Penalties for unauthorized disclosures; liability of department.

9. a. A person or entity whom the department determines has violated the provisions of section 6 of P.L.2001, c.192 (C.52:9YY-6), regarding the disclosure of health data shall be subject, in addition to any other penalties that may be prescribed by law, to: a civil penalty of not more than $10,000 for each such violation, but not to exceed $50,000 in the aggregate for multiple violations; or a civil penalty of not more than $250,000, if the department finds that these violations have occurred with such frequency as to constitute a general business practice.

The penalty shall be sued for and collected in the name of the department in a summary proceeding in accordance with the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

b. The department or an entity acting on its behalf shall be liable to a person or entity injured by the intentional or negligent violation of the provisions of section 6 of P.L.2001, c.192 (C.52:9YY-6), in an amount equal to the damages sustained by the person or entity, together with the cost of the action and reasonable attorney's fees, as determined by the court.

18. Section 3 of P.L.1991, c.235 (C.13:1D-37) is amended to read as follows:

C.13:1D-37 Definitions.

3. As used in this act:

"Commissioner" means the Commissioner of the Department of Environmental Protection.

"Consume" means to change or alter the molecular structure of a hazardous substance within a production process.

"Department" means the Department of Environmental Protection.

"Facility" means all buildings, equipment, structures, and other property that are located on a single site or on contiguous or adjacent sites and that are owned or operated by the same person.

"Facility-wide permit" means a single permit issued by the department to the owner or operator of a priority industrial facility incorporating the permits, certificates, registrations, or any other relevant department approvals previously issued to the owner or operator of the priority industrial facility pursuant to P.L.1970, c.39 (C.13:1E-1 et seq.), P.L.1977, c.74 (C.58:10A-1 et seq.), or P.L.1954, c.212 (C.26:2C-1 et seq.), and the appropriate provisions

of the pollution prevention plan prepared by the owner or operator of the priority industrial facility pursuant to section 7 and section 8 of this act.

"Hazardous substance" means any substance on the list established by the United States Environmental Protection Agency for reporting pursuant to 42 U.S.C. s.11023, and any other substance which the department, pursuant to the provisions of subsection i. of section 8 of this act, defines as a hazardous substance for the purposes of this act.

"Hazardous waste" means any solid waste defined as hazardous waste by the department pursuant to P.L.1970, c.39 (C.13:1E-1 et seq.).

"Industrial facility" means any facility having a Standard Industrial Classification, as designated in the Standard Industrial Classification Manual prepared by the federal Office of Management and Budget, within the Major Group Numbers, Group Numbers, or Industry Numbers listed in subsection h. of section 3 of P.L.1983, c.315 (C.34:5A-3) and which is subject to the regulatory requirements of P.L.1970, c.39 (C.13:1E-1 et seq.), P.L.1977, c.74 (C.58:10A-1 et seq.), or P.L.1954, c.212 (C.26:2C-1 et seq.).

"Manufacture" means to produce, prepare, import, or compound a hazardous substance.

"Multimedia release" means the release of a hazardous substance to any environmental medium, or any combination of media, including the air, water or land, and shall include any release into workplaces.

"Nonproduct output" means all hazardous substances or hazardous wastes that are generated prior to storage, recycling, treatment, control, or disposal and that are not intended for use as a product.

"Office" means the Office of Pollution Prevention established in the department pursuant to section 4 of this act.

"Operator" means any person in control of, or exercising responsibility for, the daily operation of an industrial facility or a priority industrial facility.

"Owner" means any person who owns an industrial facility or a priority industrial facility.

"Person" means any individual, partnership, company, corporation, society, firm, consortium, joint venture, or any commercial or other legal entity.

"Pilot facility" means a facility or designated area of a facility used for pilot-scale development of products or processes.

"Pollution prevention" means: changes in production technologies, raw materials or products, that result in the reduction of the demand for hazardous substances per unit of product manufactured and the creation of hazardous products or nonproduct outputs; or changes in the use of raw materials, products, or production technologies that result in the reduction of the input use of hazardous substances and the creation of hazardous by-

products or destructive results; or on-site facility changes in production processes, products, or the use of substitute raw materials that result in the reduction of the amount of hazardous waste generated and disposed of on the land or hazardous substances discharged into the air or water per unit of product manufactured prior to treatment, and that reduce or eliminate, without shifting, the risks that the use of hazardous substances at an industrial facility pose to employees, consumers, and the environment and human health. "Pollution prevention" shall include, but need not be limited to, raw material substitution, product reformulation, production process redesign or modification, in-process recycling, and improved operation and maintenance of production process equipment. "Pollution prevention" shall not include any action or change entailing a substitution of one hazardous substance, product or nonproduct output for another that results in the creation of substantial new risk, and shall not include treatment, increased pollution control, out-of-process recycling, or incineration, except as otherwise provided pursuant to subsection f. of section 7 of this act.

"Pollution prevention plan" means a plan required to be prepared by an industrial facility pursuant to the provisions of section 7 of this act.

"Pollution prevention plan progress report" means a report required to be submitted annually to the department by the owner or operator of an industrial facility pursuant to the provisions of section 7 of this act.

"Pollution prevention plan summary" means a summary of a pollution prevention plan required to be prepared by an industrial facility and submitted to the department pursuant to the provisions of section 7 of this act.

"Priority industrial facility" means any industrial facility required to prepare and submit a toxic chemical release form pursuant to 42 U.S.C. s.11023, or any other facility designated a priority industrial facility pursuant to rules and regulations adopted by the department pursuant to the provisions of subsection h. of section 8 of this act.

"Process" means the preparation of a hazardous substance, after its manufacture, for sale or use in the same form or physical state, or in a different form or physical state, as that in which it was received at the industrial facility where it is processed, or as part of an article or product containing the hazardous substance.

"Product" means a desired result of a production process that is used as a commodity in trade in the channels of commerce by the general public in the same form as it is produced.

"Production process" means a process, line, method, activity or technique, or a series or combination of processes, lines, methods or techniques used to produce a product or reach a planned result.

"Research and development laboratory" means a facility or a specially designated area of a facility used primarily for research, development, and testing activity, and not primarily involved in the production of goods for commercial sale, in which hazardous substances are used by, or under, the direct supervision of a technically qualified person.

"Source" means a point or location in a production process at which a nonproduct output is generated or released, provided, however, that similar, related, or identical kinds of sources may be considered a single source for the purposes of this act.

"Targeted production process" means any production process which significantly contributes to the use or release of hazardous substances or the generation of hazardous waste or nonproduct output, as determined by the owner or operator of an industrial facility pursuant to criteria established by the department.

"Targeted source" means any source which significantly contributes to the generation of nonproduct output, as determined by the owner or operator of an industrial facility pursuant to criteria established by the department.

"Use" means to process or otherwise use a hazardous substance.

"Violation of this act" means a violation of any provision of this act, or any rule or regulation, administrative order, or facility-wide permit adopted or issued pursuant thereto.

19. Section 21 of P.L.1983, c.315 (C.34:5A-21) is amended to read as follows:

C.34:5A-21 Joint procedure concerning revision of workplace or environmental hazardous substance list.

21. The Department of Health and Senior Services, the Department of Environmental Protection, and the Department of Labor and Workforce Development shall jointly establish a procedure for annually receiving information from the public and any other interested party, concerning any revision of the workplace hazardous substance list and any revision of the environmental hazardous substance list. This procedure shall include a mechanism for revising the workplace hazardous substance list and the environmental hazardous substance list. Any revision of the workplace hazardous substance list or environmental hazardous substance list shall be based on documented scientific evidence. The Department of Health and Senior Services and the Department of Environmental Protection shall publicly announce any revisions of the workplace hazardous substance list or the environmental hazardous substance list, and any such additions or revi-

sions shall be made pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

20. Section 8 of P.L.1998, c.108 (C.27:5F-41) is amended to read as follows:

C.27:5F-41 Development of curriculum guidelines for safe operation of motor vehicles.

8. a. The Director of the Office of Highway Traffic Safety in the Department of Law and Public Safety, after consultation with the Chief Administrator of the New Jersey Motor Vehicle Commission in, but not of, the Department of Transportation, shall develop curriculum guidelines for use by teachers of approved classroom driver education courses. The course of instruction for approved courses shall be no less than 30 hours in length and be designed to develop and instill the knowledge and attitudes necessary for the safe operation and driving of motor vehicles. Defensive driving, highway courtesy, accident avoidance, understanding and respect for the State's motor vehicle laws, insurance fraud and State requirements for and benefits of maintaining automobile insurance shall be emphasized. The incorporation of these curriculum guidelines in these classroom courses and the use of related instructional materials shall be a requirement for approval of the course by the chief administrator.

b. The Director of the Office of Highway Traffic Safety, in consultation with the Chief Administrator of the New Jersey Motor Vehicle Commission, shall produce an informational brochure for parents and guardians of beginning drivers under the age of 18 years. The commission shall ensure that the parents or guardians of a permit holder receive these brochures at the time a permit is issued to a beginning driver. The brochures shall include, but not be limited to, the following information:

(1) Setting an example for the beginning driver;

(2) Accident and fatality statistics about beginning drivers;

(3) Causes of accidents among beginning drivers;

(4) The need to supervise vehicle operation by a beginning driver;

(5) Methods to coach a beginning driver on how to reduce accidents;

(6) A description of the graduated driver's license program; and

(7) Benefits of classroom and behind-the-wheel driver education under the direction of State certified or licensed driving instructors, as the case may be.

21. Section 9 of P.L.1998, c.108 (C.27:5F-42) is amended to read as follows:

C.27:5F-42 "Graduated Driver License Fund."

9. a. There is created in the Department of Transportation a special non-lapsing fund to be known as the "Graduated Driver License Fund." There shall be deposited in the fund up to $5 from each special learner's permit fee and examination permit fee for a passenger automobile that is established pursuant to R.S.39:3-13 and any other monies that may be made available for graduated license program start-up costs. The New Jersey Motor Vehicle Commission shall administer expenditures from this fund.

b. Amounts necessary to reimburse the New Jersey Motor Vehicle Commission in, but not of, the Department of Transportation and the Office of Highway Traffic Safety in the Department of Law and Public Safety for all costs reasonably and actually incurred in the initial implementation and continuing administration of this act shall be appropriated from the fund. The New Jersey Motor Vehicle Commission and the Office of Highway Traffic Safety shall certify to the State Treasurer their start-up costs to carry out their responsibilities under P.L.1998, c.108, and the program's costs annually thereafter. This amount shall be reimbursed to the New Jersey Motor Vehicle Commission and the Office of Highway Traffic Safety from the Graduated Driver License Fund. In the event the fund's balance is insufficient to fully reimburse these costs, the State Treasurer shall provide to the Graduated Driver License Fund a loan from the General Fund in the amount needed to fully defray these costs. This loan shall be repaid to the General Fund when the balance in the Graduated Driver License Fund exceeds the amount necessary to reimburse these costs.

22. Section 10 of P.L.1998, c.108 (C.27:5F-43) is amended to read as follows:

C.27:5F-43 Recommendations with respect to rules, regulations.

10. a. The Director of the Office of Highway Traffic Safety shall make recommendations to the Chief Administrator of the New Jersey Motor Vehicle Commission with respect to rules and regulations promulgated under P.L.1998, c.108 including, but not limited to, the development of uniform curriculum guidelines for approved classroom and behind-the-wheel driver education.

b. The course of instruction for behind-the-wheel driver education shall be designed to develop the skills necessary for the safe and lawful operation of a motor vehicle. Defensive driving, highway courtesy, appropriate driving behavior and attitudes, accident avoidance, safe passing and lane changing, and a general understanding of and respect for the State's motor vehicle laws shall be emphasized.

23. Section 4 of P.L.1969, c.95 (C.18A:61A-4) is amended to read as follows:

C.18A:61A-4 Employment of coordinators, professional staff.

4. The school shall employ northern, central and southern coordinators and hire appropriate professional staff to implement programs in music, dance, visual arts and creative writing in each of the 21 counties of the State.

24. Section 6 of P.L.1969, c.95 (C.18A:61A-6) is amended to read as follows:

C.18A:61A-6 Commissioner supervision; powers, duties.

6. The school shall be governed by the Commissioner of Education under the general policies and guidelines set by the State Board of Education, and the commissioner shall have general supervision over, and shall be vested with the conduct of, the school. The commissioner shall, within the general policies and guidelines set by the State Board of Education, have the power and duty to:

a. Determine the educational curriculum and program of the school in accordance with the arts standards, frameworks and assessments;

b. Determine policies for the organization, administration and development of the school;

c. Study the educational and financial needs of the school; annually acquaint the Governor and Legislature with the condition of the school; and prepare, and after concurrence by and jointly with the State Board of Education, present the annual budget to the Governor and Legislature, in accordance with law;

d. Subject to the provisions of P.L.1944, c.112 (C.52:27B-1 et seq.), direct and control the expenditures of the school in accordance with the provisions of the budget and the appropriations acts of the Legislature, except that with respect to transfers of funds pursuant to P.L.1944, c.112 (C.52:27B-1 et seq.), the school shall be deemed a spending agency, and as to funds received or solicited from other sources, in accordance with the terms of any applicable trusts, gifts, bequests, or other special provisions, the counsel, advice and assistance of the Division of Investment in the Department of the Treasury shall be available to the commissioner in the establishment and maintenance of endowment and trust funds;

e. With the approval of the State Board of Education appoint and fix the compensation of a director of the school who shall be its executive officer and shall serve at the pleasure of the commissioner;

f. Appoint members of the academic, administrative and teaching staffs as shall be required and fix their compensation and terms of employment in accordance with salary policies adopted by the State Board of Education, which salary policies shall prescribe qualifications for the education staff that may be in any given classification;

g. Appoint, remove, promote and transfer such other officers, agents or employees as may be required for carrying out the purposes of the school and assign their duties, determine their salaries and prescribe qualifications for all positions, all in accordance with the provisions of Title 11A, Civil Service, of the New Jersey Statutes;

h. Subject to the provisions of P.L.1954, c.48 (C.52:34-6 et seq.), to enter into contracts and agreements with the State or any of its political subdivisions or with the United States, or with any public body, department or other agency of the State or the United States or with any individual, firm, or corporation which are deemed necessary or advisable by the commissioner for carrying out the purposes of the school;

i. Adopt bylaws and make and promulgate such rules, regulations and orders, not inconsistent with the provisions of this act that are necessary and proper for the administration and operation of the school and the carrying out of its purposes;

j. Receive and accept private and corporate contributions for such purposes and upon such terms as the donor may prescribe consistent with the purposes of the school and general policies and guidelines set by the State Board of Education.

25. Section 7 of P.L.1969, c.95 (C.18A:61A-7) is amended to read as follows:

C.18A:61A-7 Contracts by commissioner.

7. Subject to the approval of the State Board of Education or the board of education of a school district, as the case may be, the Commissioner of Education may contract for the use of existing facilities, courses of instruction and programs in academic and other nonarts courses and instruction of other educational institutions and to employ faculty and other personnel jointly or on a co-operative or cost sharing basis with such other educational institutions.

26. Section 2 of P.L.1981, c.311 (C.45:14D-2) is amended to read as follows:

C.45:14D-2 Definitions.

2. As used in this act:

a. "Accessorial service" means the preparation of articles for shipment, including, but not limited to, the packing, crating, boxing and servicing of appliances, the furnishing of containers, unpacking, uncrating and reassembling of articles, placing them at final destination and the moving or shifting of articles from one location to another within a building, or at a single address;

b. (Deleted by amendment, P.L.2010, c.87)

c. (Deleted by amendment, P.L.1993, c.365).

d. "Department" means the Department of Law and Public Safety;

e. "Household goods" means personal effects, fixtures, equipment, stock and supplies or other property usually used in or as part of the stock of a dwelling, when it is put into storage or when it is transported by virtue of its removal, in whole or in part, by a householder from one dwelling to another, or from the dwelling of a householder to the dwelling of another householder, or between the dwelling of a householder and a repair or storage facility, or from the dwelling to an auction house or other place of sale. The term "household goods" shall not apply to property moving from a factory or store, except property which the householder has purchased and which is transported at his request as part of the movement by the householder from one dwelling to another;

f. "Intrastate commerce" means commerce moving wholly between points within the State over all public highways, or at a single location;

g. "License" means a license issued by the director;

h. "Motor vehicle" means any vehicle, machine, tractor, truck or semitrailer, or any combination thereof, propelled, driven or drawn by mechanical power, and used upon the public highways in the transportation of household goods, office goods and special commodities in intrastate commerce;

i. "Mover's services" means all of the services rendered by a public mover;

j. "Storage services" means all of the services rendered by a warehouseman;

k. "Office goods" means personal effects, fixtures, furniture, equipment, stock and supplies or other property usually used in or as part of the stock of any office, or commercial, institutional, professional or other type of establishment, when it is put into storage or when the property is transported by virtue of its removal, in whole or in part, from one location to another, but does not mean or include stock and supplies or other property

usually used in or as part of the stock of any office, or commercial, institutional, professional or other type of establishment, when put into storage;

l. "Person" means any individual, copartnership, association, company, or corporation, and includes any trustee, receiver, assignee, lessee, or personal representative of any person herein defined;

m. "Place of business" means a business office located in New Jersey from which the mover or warehouseman conducts his daily business and where records are kept;

n. "Property" means all of the articles in the definition of household goods, office goods or special commodities;

o. "Public highway" or "highway" means any public street, road, thoroughfare, bridge and way in this State open to the use of the public as a matter of right for purposes of motor vehicular travel, including those that impose toll charges;

p. "Public mover" or "mover" means any person who engages in the transportation of household goods, office goods or special commodities by motor vehicle for compensation in intrastate commerce between points in this State, including the moving of household goods, office goods or special commodities from one location to another at a single address, and any person who engages in the performance of accessorial services; except that the term "public mover" or "mover" shall not apply to an owner-operator, or any person who engages in, or holds himself out to the general public as engaging in, the transportation of special commodities when such commodities are not transported by virtue of a removal, in whole or in part, and who does not engage, nor hold himself out to the general public as engaging in, the transportation of household or office goods;

q. "Special commodities" means uncrated or unboxed works of art, fixtures, appliances, business machines, electronic equipment, displays, exhibits, home, office, store, theatrical or show equipment, musical instruments, or other articles being put into storage or being moved, and which require the use of equipment and personnel usually furnished or employed by warehousemen or public movers, except that the provisions of P.L.1981, c.311 (C.45:14D-1 et seq.) shall not apply to any person engaged in the transportation or storage of special commodities when these commodities are not transported by virtue of a removal, in whole or in part;

r. "Storage" means the safekeeping of property in a depository for compensation;

s. "Tariff" means a schedule of rates and charges for the storage or transportation of property in intrastate commerce on file with the director, which shall be used, except in the use of binding estimates by movers, in

computing all charges on the storage or transportation of property as of the date of the time in storage or transportation;

t. "Warehouseman" means a person engaged in the business of storage;

u. "Removal" means the physical relocation, in whole or in part, of either household goods, office goods or special commodities from one location to another location, including internal relocations within the same room or facility, for compensation;

v. "Bill of lading" means "bill of lading" as defined by paragraph (6) of N.J.S.12A:1-201;

w. "Consumer" means a person who contracts with a public mover for mover's services;

x. "Contracting public mover" means a licensed public mover who contracts with an owner-operator to provide any mover's service of the licensed public mover, and is liable for any mover's services performed or agreed to be performed by the owner-operator pursuant to that contract;

y. "Director" means the Director of the Division of Consumer Affairs in the Department of Law and Public Safety;

z. "Owner-operator" means a person who owns, leases, or rents one or more motor vehicles and who uses the vehicles to provide mover's services for a contracting public mover.

27. Section 6 of P.L.1981, c.311 (C.45:14D-6) is amended to read as follows:

C.45:14D-6 Powers and duties of director.

6. The director shall, in addition to such other powers and duties as the director may possess by law:

a. Administer and enforce the provisions of this act;

b. Adopt and promulgate rules and regulations, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate the purposes of this act;

c. Examine and pass on the qualifications of all applicants for license under this act, and issue a license to each qualified applicant;

d. Establish professional standards for persons licensed under this act;

e. Conduct hearings pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.); except that the director shall have the right to administer oaths to witnesses, and shall have the power to issue subpoenas for the compulsory attendance of witnesses and the production of pertinent books, papers, or records;

f. Conduct proceedings before any board, agency or court of competent jurisdiction for the enforcement of the provisions of this act;

g. Annually publish a list of the names, addresses and tariffs of all persons who are licensed under this act;

h. Establish reasonable requirements with respect to proper and adequate movers' and warehousemen's services and the furnishing of estimates, and prescribe a uniform system of accounts, records and reports;

i. Adopt and promulgate rules and regulations to protect the interests of the consumer, including, but not limited to, regulations concerning the contents of information brochures which a mover or warehouseman shall give to a customer prior to the signing of a contract for moving or storage services.

28. Section 7 of P.L.1981, c.311 (C.45:14D-7) is amended to read as follows:

C.45:14D-7 Revocation, suspension, nonrenewal, nonissuance of licenses; grounds, hearing.

7. The director may, after notice and opportunity for a hearing, revoke, suspend or refuse to renew or issue any license issued pursuant to this act upon a finding that the applicant or holder of a license:

a. Has obtained a license by means of fraud, misrepresentation or concealment of material facts;

b. Has engaged in the use or employment of dishonesty, fraud, deception, misrepresentation, false promise or false pretense;

c. Has engaged in gross negligence or gross incompetence;

d. Has engaged in repeated acts of negligence or incompetence;

e. Has repeatedly failed to discharge contractual obligations to any person contracting for moving or storage services;

f. Has engaged in occupational misconduct;

g. Has been convicted of any crime involving moral turpitude or any crime relating adversely to the activities regulated by P.L.1981, c.311 (C.45:14D-1 et seq.). For the purpose of this subsection, a plea of guilty, non vult, nolo contendere or any other similar disposition of alleged criminal activity shall be deemed a conviction;

h. Has had his authority to engage in the activities regulated by P.L.1981, c.311 (C.45:14D-1 et seq.) revoked or suspended by any other state, agency or authority for reasons consistent with that act; or

i. Has violated or failed to comply with the provisions of P.L.1981, c.311 (C.45:14D-1 et seq.) or any regulation adopted thereunder.

The licensee or applicant shall be furnished with an official statement of the reasons for the director's proposed action and shall be afforded an opportunity for a hearing.

29. Section 8 of P.L.1981, c.311 (C.45:14D-8) is amended to read as follows:

C.45:14D-8 Restoration after one year.

8. The director may, after one year from the date of the revocation of any license, restore the license.

30. Section 9 of P.L.1981, c.311 (C.45:14D-9) is amended to read as follows:

C.45:14D-9 License required, application, issuance.

9. a. It shall be unlawful for any person to engage in the business of public moving or storage unless he shall have obtained from the director a license to engage in the business and shall have a permanent place of business in this State;

b. Application for a license shall be made in writing to the director, be verified under oath by the agent in charge and shall contain the following information: (1) the name and location of the applicant; (2) description of the applicant's moving vehicles and storage facilities; (3) identification of the issuer and amount of any insurance or surety bonds maintained by the applicant. A license shall be issued to a qualified applicant if it is found that the applicant is fit, willing and able to perform the service of a mover or warehouseman, and to conform to the provisions of this act;

c. Every person advertising moving or storage services shall include in any advertisement the number of his license, and his New Jersey business address and telephone number;

d. No license shall be issued to an applicant if the applicant has: (1) committed any act which if committed by a licensee would be grounds for suspension or revocation; (2) misrepresented any material fact on his application; (3) not registered each vehicle which will be performing intrastate moves in New Jersey, except on vehicles which have been rented or leased and are operated by a public mover licensed under this act; (4) not established or maintained a place of business in New Jersey;

e. A copy of the license shall be carried on each truck, tractor, trailer or semitrailer or combination thereof at all times when the vehicle is being used in operations subject to this act.

31. Section 11 of P.L.1981, c.311 (C.45:14D-11) is amended to read as follows:

C.45:14D-11 Observance of rules and regulations.

11. Every warehouseman or mover shall provide safe, proper and adequate service and shall observe the director's rules and regulations concerning the storage or transportation of property.

32. Section 14 of P.L.1981, c.311 (C.45:14D-14) is amended to read as follows:

C.45:14D-14 Tariffs.

14. a. Public movers and warehousemen shall file their tariffs with the director semiannually;

b. Except in the use of binding estimates provided for in section 6 of P.L.1998, c.60 (C.45:14D-29), no public mover or warehouseman shall charge, demand, collect or receive a greater compensation for his service than specified in the tariff.

33. Section 15 of P.L.1981, c.311 (C.45:14D-15) is amended to read as follows:

C.45:14D-15 Fees; one-year licenses; fees only to defray expenses.

15. a. The director shall by rule or regulation establish, prescribe or change the fees for licenses, renewals of licenses or other services. Licenses shall expire one year from the date of issue unless the holder thereof shall, 30 days before such expiration, pay to the director a renewal fee accompanied by a renewal application on a form prescribed by the director.

b. The director's fees established, prescribed or changed pursuant to this section shall be established, prescribed or changed to such extent as shall be necessary to defray all proper expenses incurred by the director and any staff employed to administer this act; but such fees shall not be fixed at a level that will raise amounts in excess of the amount estimated to be so required.

c. All fees and any fines imposed by the director shall be paid to the director and shall be forwarded by the director to the State Treasurer and become part of the General Fund.

d. There shall be annually appropriated to the Department of Law and Public Safety for the use of the director such sums as shall be necessary to implement and effectuate the provisions of this act.

34. Section 16 of P.L.1981, c.311 (C.45:14D-16) is amended to read as follows:

C.45:14D-16 Violations of act; penalties.

16. Any person violating any provision of P.L.1981, c.311 (C.45:14D-1 et seq.) shall, in addition to any other sanctions provided herein, be liable to a civil penalty of not more than $2,500.00 for the first offense and not more than $5,000.00 for the second and each subsequent offense. For the purpose of this section, each transaction or violation shall constitute a separate offense; except a second or subsequent offense shall not be deemed to exist unless an administrative or court order has been entered in a prior, separate and independent proceeding. In lieu of an administrative proceeding or an action in the Superior Court, the Attorney General may bring an action in the name of the director for the collection or enforcement of civil penalties for the violation of any provision of that act. The action may be brought in a summary manner pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.), and the rules of court governing actions for the collection of civil penalties in the municipal or Special Civil Part of the Law Division of the Superior Court where the offense occurred. Process in the action may be by summons or warrant and if the defendant in the action fails to answer the action, the court shall, upon finding an unlawful act or practice to have been committed by the defendant, issue a warrant for the defendant's arrest in order to bring the person before the court to satisfy the civil penalties imposed. In an action commenced pursuant to this section, the court may order restored to any person in interest any moneys or property acquired by means of an unlawful act or practice. Any action alleging the unlicensed practice of the activities regulated by P.L.1981, c.311 (C.45:14D-1 et seq.) shall be brought pursuant to this section or, where injunctive relief is sought, by an action commenced in the Superior Court. In an action brought pursuant to that act, the director or the court may order the payment of costs for the use of the State.

35. Section 7 of P.L.1984, c.140 (C.45:14D-17) is amended to read as follows:

C.45:14D-17 Investigations of suspected violations.

7. Whenever it shall appear to the director or the Attorney General that a person has engaged in, or is engaging in, any act or practice declared unlawful by P.L.1981, c.311 (C.45:14D-1 et seq.), or when the director or the Attorney General shall deem it to be in the public interest to inquire

whether a violation may exist, the director through the Attorney General, or the Attorney General acting independently, may:

a. Require any person to file, on a form to be prescribed, a statement or report in writing under oath, or otherwise, as to the facts and circumstances concerning the rendition of any service or conduct of any sale incidental to the discharge of any act or practice subject to that act;

b. Examine under oath any person in connection with any act or practice subject to that act;

c. Inspect any premises from which the activity regulated by that act is conducted;

d. Examine any goods, ware or item used in the rendition of any service by a public mover or warehouseman;

e. Examine any record, book, document, account or paper maintained by or for any public mover or warehouseman in the regular course of engaging in the activities regulated by that act or regulations promulgated pursuant to that act;

f. For the purpose of preserving evidence of an unlawful act or practice, pursuant to an order of the Superior Court, impound any record, book, document, account, paper, goods, ware, or item used or maintained by or for any public mover or warehouseman in the regular course of engaging in the activities regulated by that act or regulations promulgated pursuant to that act. When necessary, the Superior Court may, on application of the Attorney General, issue an order sealing items or material subject to this subsection.

In order to accomplish the objectives of P.L.1981, c.311 (C.45:14D-1 et seq.) or the regulations promulgated pursuant to that act, the director or the Attorney General may hold investigative hearings as necessary and may issue subpoenas to compel the attendance of any person or the production of books, records or papers at a hearing or inquiry.

36. Section 8 of P.L.1984, c.140 (C.45:14D-18) is amended to read as follows:

C.45:14D-18 Court order.

8. If a person fails or refuses to file any statement or report, or refuses access to premises from which activities regulated by P.L.1981, c.311 (C.45:14D-1 et seq.) are conducted in any lawfully conducted investigative matter or fails to obey a subpoena issued pursuant to that act, the director or the Attorney General may apply to the Superior Court and obtain an order:

a. Adjudging that person in contempt of court and assessing civil penalties in accordance with the amounts prescribed by that act; or

b. Granting other relief as required; or

c. Suspending the license of that person until compliance with the subpoena or investigative demand is effected.

37. Section 10 of P.L.1984, c.140 (C.45:14D-20) is amended to read as follows:

C.45:14D-20 Additional penalties.

10. In addition or as an alternative, as the case may be, to revoking, suspending or refusing to renew any license, the director may, after affording an opportunity to be heard:

a. Assess civil penalties in accordance with P.L.1981, c.311 (C.45:14D-1 et seq.);

b. Order that any person violating any provision of that act cease and desist from future violations thereof or take affirmative corrective action as necessary with regard to any act or practice found to be unlawful by the director;

c. Order any person found to have violated any provision of that act to restore or to return to any person aggrieved by an unlawful act or practice any moneys or property, real or personal, acquired by means of that act or practice; except that the director shall not order restoration in a dollar amount greater than those moneys received by a licensee or his agent or any other person violating that act.

In any administrative proceeding on a complaint alleging a violation of that act, the director may issue subpoenas to compel the attendance of witnesses or the production of books, records, or documents at the hearing on the complaint.

38. Section 11 of P.L.1984, c.140 (C.45:14D-21) is amended to read as follows:

C.45:14D-21 Injunctive relief.

11. Whenever it shall appear to the director or the Attorney General that a violation of P.L.1981, c.311 (C.45:14D-1 et seq.), including the unlicensed practice of the activities regulated therein, has occurred, is occurring, or will occur, the Attorney General, in addition to any other proceeding authorized by law, may seek and obtain in a summary proceeding in the Superior Court an injunction prohibiting the act or practice. In the proceeding the court may assess a civil penalty in accordance with the provisions of

that act, order restoration to any person in interest of any moneys or property, real or personal, acquired by means of an unlawful act or practice and may enter any orders necessary to prevent the performance of an unlawful practice in the future and to remedy fully any past unlawful activity. In any action brought pursuant to this section, the court shall not suspend or revoke any license issued by the director.

39. Section 12 of P.L.1984, c.140 (C.45:14D-22) is amended to read as follows:

C.45:14D-22 Docketing of judgment.

12. Upon the failure of any person to comply within 10 days after service of any order of the director directing payment of penalties or restoration of moneys or property, the Attorney General or the director may issue a certificate to the Clerk of the Superior Court that the person is indebted to the State for the payment of the penalty and the moneys or property ordered restored. A copy of the certificate shall be served upon the person against whom the order was entered. Thereupon the clerk shall immediately enter upon his record of docketed judgments the name of the person so indebted and of the State, a designation of the statute under which the penalty is imposed, the amount of the penalty imposed, and amount of moneys ordered restored, a listing of property ordered restored, and the date of the certification. The entry shall have the same force and effect as the entry of a docketed judgment in the Superior Court, and the Attorney General shall have all rights and remedies of a judgment creditor, in addition to exercising any other available remedies. The entry, however, shall be without prejudice to the right of appeal to the Appellate Division of the Superior Court from the director's order.

An action to enforce the provisions of an order entered by the director or to collect a penalty levied thereby may be brought in any municipal or Special Civil Part of the Law Division of the Superior Court or the Superior Court in a summary manner pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.) and the rules of court governing the collection of civil penalties. Process in the action shall be by summons or warrant, and if the defendant fails to answer the action, the court shall issue a warrant for the defendant's arrest for the purpose of bringing the person before the court to satisfy any order entered.

40. Section 13 of P.L.1984, c.140 (C.45:14D-23) is amended to read as follows:

C.45:14D-23 Violation of cease and desist order.

13. When it shall appear to the director or the Attorney General that a person against whom a cease and desist order has been entered has violated the order, the director or the Attorney General may initiate a summary proceeding in the Superior Court for the violation thereof. Any person found to have violated a cease and desist order shall pay to the State of New Jersey civil penalties in the amount of not more than $25,000.00 for each violation of the order. If a person fails to pay a civil penalty assessed by the court for violation of a cease and desist order, the court assessing the unpaid penalty is authorized, upon application of the director or the Attorney General, to grant any relief which may be obtained under any statute or court rule governing the collection and enforcement of penalties.

41. Section 15 of P.L.1984, c.140 (C.45:14D-25) is amended to read as follows:

C.45:14D-25 Insurance requirements.

15. No license shall be issued to a warehouseman or mover or remain in force unless the warehouseman or mover complies with the rules or regulations that the director shall prescribe governing policies of insurance, qualifications as a self-insurer or other securities or agreements in the amount that the director may require.

42. Section 3 of P.L.1998, c.60 (C.45:14D-26) is amended to read as follows:

C.45:14D-26 Notification to BPU of unlicensed mover.

3. The director shall notify the Board of Public Utilities of the business location and telephone number of any public mover that does not have a valid license issued by the director.

43. Section 4 of P.L.1998, c.60 (C.45:14D-27) is amended to read as follows:

C.45:14D-27 Order to disconnect unlicensed mover's telephone.

4. When notified by the director pursuant to section 3 of P.L.1998, c.60 (C.45:14D-26), the Board of Public Utilities shall order the servicing telecommunications company to disconnect that mover's telephone number that is published in any commercial listing.

44. Section 12 of P.L.1969, c.158 (C.18A:73-27) is amended to read as follows:

C.18A:73-27 State Library personnel.

12. The State Library shall consist of the State Librarian and such other personnel as the President of Thomas Edison State College may deem necessary for the efficient administration thereof.

45. N.J.S.18A:74-10 is amended to read as follows:

Compliance with regulations, standards.

18A:74-10. In order to participate in any apportionment made according to the provisions of this chapter, municipalities and counties shall comply with the regulations and standards which have been, or which may be, prescribed by law or recommended by the State Librarian for the operation and improvement of free public libraries to provide efficient and effective library services, to insure public benefit and convenience therefrom and to achieve the objects of this chapter.

46. Section 4 of P.L.1973, c.381 (C.18A:74-17) is amended to read as follows:

C.18A:74-17 Administration of act.

4. The administration of this act shall be governed by rules and regulations recommended and promulgated by the State Librarian with the approval of the President of Thomas Edison State College.

47. Section 3 of P.L.1999, c.184 (C.18A:74-26) is amended to read as follows:

C.18A:74-26 Public Library Construction Advisory Board.

3. There is created a Public Library Construction Advisory Board to be comprised of seven members as follows: the Secretary of State or the secretary's designee who shall serve as the chair; the State Librarian or the librarian's designee; the President of Thomas Edison State College, or the president's designee; and four persons with library, construction, or finance experience who shall be appointed by the Governor with the advice and consent of the Senate and who shall serve at the pleasure of the Governor and until their successors are appointed and shall have qualified.

Moneys in the fund shall be distributed as grants to public libraries for part of eligible project costs as enumerated in section 4 of P.L.1999, c.184 (C.18A:74-27), based on criteria and a competitive selection process estab-

lished by the board. The board shall promulgate regulations prescribing procedures for applying for a grant and the terms and conditions for receiving a grant. A grant application shall include a complete description of the project to be financed and an identification of additional sources of revenue to be used. An application shall be reviewed, and approved or denied by the board in accordance with uniform procedures by resolution of the board. When a grant is approved by the board, the board shall establish the recommended grant amount and shall submit to the Joint Budget Oversight Committee, or its successor, the board's approved amount of the grant and a brief description of the project for approval by the committee. Any grant not disapproved by the Joint Budget Oversight Committee within 30 days of such submission shall be deemed approved by the committee. After a grant application is approved by the committee, the board shall forward a copy of the application and certify the approved amount of the grant to the authority.

Repealer.

48. The following are repealed:

Sections 13, 15, and 16 of P.L.1969, c.158 (C.18A:73-28, 18A:73-30 and 31);

Section 7 of P.L.1983, c.486 (C.18A:73-31.1);

P.L.1979, c.443;

Section 9 of P.L.1999, c.156 (C.52:27D-118.30b);

P.L.1983, c.378 (C.52:9V-1 et seq.);

Section 12 of P.L.1971, c.134 (C.52:17B-129);

Section 1 of P.L.2000, c.138 (C.18A:44-5);

P.L.1978, c.68;

Section 1 of P.L.1994, c.191;

Section 31 of P.L.2002, c.40 (C.54:10A-41);

Sections 2 through 4 of P.L.1985, c.1 (C.52:17B-77.1 through 52:17B-77.3, inclusive);

Sections 8 through 12 of P.L.1991, c.344;

Section 6 of P.L.1977, c.240 (C.24:6E-5);

Section 37 of P.L.1993, c.139;

P.L.2003, c.58;

Section 2 of P.L.1999, c.419 (C.18A:65-87);

Section 2 of P.L.1995, c.419 (C.6:1-99);

Section 3 of P.L.2003, c.112 (C.17B:30-43);

P.L.2003, c.47;

Section 5 of P.L.1998, c.37;

P.L.2004, c.121;
P.L.1997, J.R.7;
Section 4 of P.L.2001, c.192 (C.52:9YY-4);
P.L.2003, c.303;
Sections 1 through 7 of P.L.1993, c.209 (C.52:16A-43 through 52:16A-49, inclusive);
P.L.1993, J.R.7;
Section 4 of P.L.1999, c.111 (C.2A:34-12.4);
Section 43 of P.L.2000, c.126;
Section 5 of P.L.1991, c.235 (C.13:1D-39);
Sections 1 through 17 of P.L.2001, c.262 (C.18A:71B-64 through 18A:71B-80, inclusive);
P.L.2004, c.85;
P.L.1993, J.R.8;
P.L.1998, J.R.7;
Sections 18 through 20 of P.L.1983, c.315 (C.34:5A-18 through 34:5A-20, inclusive);
P.L.2005, c.117;
Section 4 of P.L.1981, c.311 (C.45:14D-4);
P.L.1984, J.R.8;
P.L.1992, c.75 (C.52:9H-31 et seq.);
P.L.1994, c.146;
P.L.2002, c.49;
P.L.2004, J.R.1;
Section 3 of P.L.1969, c.95 (C.18A:61A-3); and
Sections 1 through 7 of P.L.2001, c.203.

49. This act shall take effect immediately.

Approved November 3, 2010.

CHAPTER 88

AN ACT concerning certain causes of action for negligence or malpractice and amending P.L.1995, c.139.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Section 1 of P.L.1995, c.139 (C.2A:53A-26) is amended to read as follows:

C.2A:53A-26 "Licensed person" defined.

1. As used in this act, "licensed person" means any person who is licensed as:

a. an accountant pursuant to P.L.1997, c.259 (C.45:2B-42 et seq.);

b. an architect pursuant to R.S.45:3-1 et seq.;

c. an attorney admitted to practice law in New Jersey;

d. a dentist pursuant to R.S.45:6-1 et seq.;

e. an engineer pursuant to P.L.1938, c.342 (C.45:8-27 et seq.);

f. a physician in the practice of medicine or surgery pursuant to R.S.45:9-1 et seq.;

g. a podiatrist pursuant to R.S.45:5-1 et seq.;

h. a chiropractor pursuant to P.L.1989, c.153 (C.45:9-41.17 et seq.);

i. a registered professional nurse pursuant to P.L.1947, c.262 (C.45:11-23 et seq.);

j. a health care facility as defined in section 2 of P.L.1971, c.136 (C.26:2H-2);

k. a physical therapist pursuant to P.L.1983, c.296 (C.45:9-37.11 et seq.);

l. a land surveyor pursuant to P.L.1938, c.342 (C.45:8-27 et seq.);

m. a registered pharmacist pursuant to P.L.2003, c.280 (C.45:14-40 et seq.);

n. a veterinarian pursuant to R.S.45:16-1 et seq.;

o. an insurance producer pursuant to P.L.2001, c.210 (C.17:22A-26 et seq.); and

p. a certified midwife, certified professional midwife, or certified nurse midwife pursuant to R.S.45:10-1 et seq.

2. This act shall take effect on the 30th day next following enactment and apply to causes of action filed on or after that date.

Approved November 12, 2010.

CHAPTER 89

AN ACT concerning continuing education for physicians and veterinarians, amending P.L.2001, c.307 and P.L.1952, c.198 and supplementing chapter 16 of Title 45 of the Revised Statutes.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Section 10 of P.L.2001, c.307 (C.45:9-7.1) is amended to read as follows:

C.45:9-7.1 Continuing medical education required as condition for biennial registration.

10. a. Except as provided in paragraph (2) of subsection d. of this section, the State Board of Medical Examiners shall require each person licensed as a physician, as a condition for biennial registration pursuant to section 1 of P.L.1971, c.236 (C.45:9-6.1), or as a podiatrist, as a condition for biennial registration pursuant to R.S.45:5-9, to complete a requisite number of credits of continuing medical education, all of which shall be in Category I or Category II as defined in subsection i. of this section.

b. The board shall:

(1) Establish standards for continuing medical education, including the subject matter and content of courses of study;

(2) Accredit education programs offering credit toward continuing medical education requirements or recognize national or State organizations that may accredit education programs;

(3) Allow satisfaction of continuing medical education requirements through equivalent educational programs, such as participation in accredited graduate medical education programs, examinations, papers, publications, scientific presentations, teaching and research appointments and scientific exhibits, and establish procedures for the issuance of credit upon satisfactory proof of attainment of these equivalent educational programs;

(4) Create an advisory committee to be comprised of at least five members, including representatives of the Medical Society of New Jersey, the Academy of Medicine of New Jersey, the New Jersey Association of Osteopathic Physicians and Surgeons, the New Jersey Podiatric Medical Society and such other professional societies and associations as the board may identify, to provide guidance to the board in discharging its responsibilities pursuant to this section; and

(5) Establish, through the promulgation of regulations, any specific courses or topics which, on the recommendation of the advisory committee created pursuant to paragraph (4) of this subsection and in the discretion of the board, are to be required, and designate which are the core requirements for continuing medical education, including the number of required hours, subject matter and content of courses of study.

c. Each hour of an educational course or program shall be equivalent to one credit of continuing medical education.

d. (1) The board may, in its discretion, waive requirements for continuing medical education on an individual basis for reasons of hardship such as illness or disability, retirement of license, or other good cause. A waiver shall apply only to the current biennial renewal period at the time of board issuance.

(2) The board may offset up to 10 percent of the requisite number of credits for continuing medical education biennially by the number of hours of volunteer medical services rendered by licensees, at the rate of one half of one credit of continuing medical education for each hour of volunteer medical service rendered, provided that such licensees shall be required to complete at least the core requirements established pursuant to paragraph (5) of subsection b. of this section. The board may reduce, in part, an application by a licensee to offset credits of continuing medical education pursuant to this paragraph if the board finds, in its discretion, that the applicant requires such continuing medical education in order to maintain or restore professional competence, or may deny all such applications if the board finds that continuing medical education above the core requirements is necessary because of developments in science or technology. The board may also, in its discretion, and for good cause, notify a licensee that the licensee is ineligible to offset credits of continuing medical education pursuant to this paragraph for any other reason established by regulation by the board.

e. The board shall not require completion of continuing medical education credits for any registration period commencing within 12 months of the effective date of this section.

f. The board shall require completion of medical education credits on a pro-rated basis for any registration period commencing more than 12 months but less than 24 months from the effective date of this section.

g. The board shall require new licensees to successfully complete, within 24 months of becoming licensed, an orientation course, in those topics identified by the board through regulation, conducted by an organization recognized by the board.

h. The board shall not require a new licensee to complete required continuing medical education credits, other than the orientation course described in subsection g. of this section, for any registration period commencing within 12 months of the licensee's participation in and completion of an accredited graduate medical education program.

i. As used in this section:

"Category I and Category II" means those categories of medical education courses recognized by the American Medical Association, the American Osteopathic Association, the American Podiatric Medical Association, the Accreditation Council for Continuing Medical Education or other comparable organizations recognized by the board;

"Core requirements" means the continuing medical education determined by the board to be necessary to maintain currency in professional knowledge and skills in order to deliver competent care to patients; and

"Volunteer medical services" means medical care provided without charge to low-income patients for health care services for which the patient is not covered by any public or private third party payer, in accordance with such standards, procedures, requirements and limitations as are established by the board.

2. Section 4 of P.L.1952, c.198 (C.45:16-9.4) is amended to read as follows:

C.45:16-9.4 Issuance of certificate of registration; renewal; suspension.

4. Every person licensed to practice veterinary medicine, surgery and dentistry shall procure a certificate of registration which shall be issued upon the payment of a fee determined by the board for a two-year period. A registrant not practicing in this State may apply for an inactive registration and shall pay a fee determined by the board. An inactive registrant shall not practice veterinary medicine, surgery or dentistry in this State. The secretary shall mail to each person licensed to practice veterinary medicine, surgery and dentistry at least 30 days prior to the deadline for registration a printed blank form to be properly filled in and returned to the secretary by such licensed person on or before the deadline for registration, together with such fee. In addition to information about the registrant, the board shall require each licensee to provide the following information on the application or renewal application form: the name, address and telephone number of each veterinary facility in which the registrant will practice 500 or more hours per year; the type of practice; the legal organization of the practice and that entity's name, address and telephone number, if different from the facility address and telephone number; and the name of the principals for that entity. Upon the receipt of the form properly filled in, and such fee, the certificate of registration shall be issued and transmitted.

Except as otherwise provided in section 3 of P.L.2010, c.89 (C.45:16-9.4a), a registrant applying for active license renewal shall complete not less than the requisite number of hours of continuing veterinary education

as determined by the board, of a type approved by the board, during each two-year license renewal period to be eligible for relicensure. Prior to license renewal each licensee shall submit to the board proof of completion of the required number of hours of continuing education over the prior two-year period. The board may, in its discretion, waive requirements for continuing education for an individual for reasons of hardship, such as illness or disability, retirement of the license or other good cause.

The failure on the part of the licensee to renew his certificate as required shall not deprive such person of the right of renewal. The fee to be paid if the certificate is renewed after the expiration date shall be determined by the board. Notice to the licensee by mail on or before the deadline for registration, addressed to his last post-office address known to the board, informing him of his failure to have applied for a renewal of his license certificate, shall constitute legal notification of such delinquency by the board.

Applications for renewal of certificates shall be in writing to the board, accompanied by the required fees. The license of any person who fails to procure a renewal of certificate at the time and in the manner required by this section shall be suspended by the board upon notice. Any license so suspended shall be reinstated at any time upon the payment of all past-due registration fees and an additional reinstatement fee determined by the board. The board may require that any applicant for registration who has ceased the practice of veterinary medicine for a period in excess of three years be reexamined by the board and be required to complete additional continuing education requirements as a prerequisite to relicensure by the board. Any person whose license shall have been suspended for such cause shall, during the period of such suspension, be regarded as an unlicensed person and, in case he shall continue or engage in the practice of veterinary medicine, surgery or dentistry during such period, shall be liable to penalties pursuant to the provisions of P.L.1978, c.73 (C.45:1-14 et seq.).

Every duly licensed person, before commencing the practice of veterinary medicine, surgery and dentistry in this State, shall, within 30 days of the commencement of such practice, procure the certificate of registration required in this act.

Every person practicing veterinary medicine, surgery and dentistry in this State shall conspicuously display at all times his license and registration certificate for the effective two-year period in his main office. Every person who practices veterinary medicine, surgery and dentistry without having such certificate on display, as herein required, shall be liable to a penalty pursuant to section 12 of P.L.1978, c.73 (C.45:1-25).

Every practitioner of veterinary medicine, surgery and dentistry, licensed under the provisions of R.S.45:16-1 et seq., shall report to the board in writing any change in his place of practice, whether same be his main office or branch office, within 30 days of such change.

C.45:16-9.4a Required courses, topics for continuing veterinary education.

3. a. The State Board of Veterinary Medical Examiners shall establish, through the promulgation of regulations, any specific courses or topics which are to be required for continuing veterinary education, and designate which are the core requirements for continuing veterinary education, including the number of required hours, subject matter and content of courses of study.

For purposes of this section, "core requirements" means the continuing veterinary education determined by the board to be necessary to maintain currency in professional knowledge and skills in order to deliver competent veterinary care.

b. The board may offset up to 10 percent of the requisite number of hours of continuing veterinary education required pursuant to section 4 of P.L.1952, c.198 (C.45:16-9.4) by the number of volunteer veterinary services rendered by licensees, at a rate of one half of one hour of continuing veterinary education for each hour of volunteer veterinary services, provided that a veterinarian shall be required to complete at least the core requirements established pursuant to subsection a. of this section. In addition, the board may adopt a formula providing a minimum number of spaying or neutering procedures that shall be deemed the equivalent of one hour of continuing veterinary education.

The board may reduce, in part, an application by a licensee to offset credits of continuing veterinary education pursuant to this subsection if the board finds, in its discretion, that the applicant requires continuing veterinary education in order to maintain or restore professional competence, or may deny all applications if the board finds that continuing veterinary education above the core requirements is necessary because of developments in science or technology.

The board may also, in its discretion and for good cause, notify a veterinarian that the veterinarian is ineligible to offset credits of continuing veterinary education pursuant to this subsection for any other reason established by regulation by the board.

c. As used in this section, "volunteer veterinary services" means veterinary care provided without charge to:

(1) a person eligible for, and participating in, at least one of the programs enumerated in section 3 of P.L.1983, c.172 (C.4:19A-2); or

(2) a shelter or pound licensed by the Department of Health and Senior Services or a municipally approved managed cat colony, provided that the municipality or nonprofit group or organization managing the cat colony has attested in writing to the veterinarian that the cat to be spayed or neutered or otherwise treated by the veterinarian is feral or stray with no known owner.

C.45:45:9-7.1a Rules, regulations.

4. The State Board of Medical Examiners, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), may adopt rules and regulations necessary to effectuate the purposes of this act.

C.45:16-9.4b Rules, regulations.

5. The State Board of Veterinary Medical Examiners, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), may adopt rules and regulations necessary to effectuate the purposes of this act.

6. This act shall take effect on the 180th day after the enactment of this act, but the State Board of Medical Examiners and the State Board of Veterinary Medical Examiners may take such anticipatory administrative action in advance as shall be necessary for the implementation of this act.

Approved November 30, 2010.

CHAPTER 90

AN ACT concerning certain billing practices of companies under the jurisdiction of the Board of Public Utilities and supplementing Title 48 of the Revised Statutes.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

C.48:3-96.1 Electronic billing, payment by BPU customers, certain circumstances.

1. Any company under the jurisdiction of the Board of Public Utilities that periodically bills its customers may, upon the request of a customer:

a. offer each customer the ability to receive or access, in electronic format, any periodic bill for service sent by the company to its customers

and any additional information sent by the company to its customers as required by law, provided that any notice of disconnection, discontinuance or termination of service shall be sent to a customer in written form to a customer's legal mailing address in addition to being sent or being made available in electronic format; and

b. provide the customer of such company the option of paying any such periodic bill via electronic means.

2. This act shall take effect on the 180th day after the date of enactment, but the Board of Public Utilities may take such anticipatory administrative action in advance thereof as shall be necessary for the implementation of this act.

Approved November 30, 2010.

CHAPTER 91

AN ACT concerning certain billing practices of public providers of utility services and amending and supplementing various parts of the statutory law.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Section 7 of P.L.1946, c.138 (C.40:14A-7) is amended to read as follows:

C.40:14A-7 Sewerage authority a public body corporate; powers.

7. Every sewerage authority shall be a public body politic and corporate constituting a political subdivision of the State established as an instrumentality exercising public and essential governmental functions to provide for the public health and welfare and shall have perpetual succession and have the following powers:

(1) To adopt and have a common seal and to alter the same at pleasure;

(2) To sue and to be sued;

(3) In the name of the sewerage authority and on its behalf, to acquire, hold, use and dispose of its service charges and other revenues and other moneys;

(4) In the name of the sewerage authority but for the local unit or units, to acquire, hold, use and dispose of other personal property for the purposes of the sewerage authority;

(5) In the name of the sewerage authority but for the local unit or units, to acquire by purchase, gift, condemnation or otherwise, real property and easements therein, necessary or useful and convenient for the purposes of the sewerage authority, and subject to mortgages, deeds of trust or other liens, or otherwise, and to hold and to use the same, and to dispose of property so acquired no longer necessary for the purposes of the sewerage authority;

(6) To provide for and secure the payment of any bonds and the rights of the holders thereof, and to purchase, hold and dispose of any bonds;

(7) To accept gifts or grants of real or personal property, money, material, labor or supplies for the purposes of the sewerage authority, and to make and perform such agreements and contracts as may be necessary or convenient in connection with the procuring, acceptance or disposition of such gifts or grants;

(8) To enter on any lands, waters or premises for the purpose of making surveys, borings, soundings and examinations for the purposes of the sewerage authority, and whenever the operation of a septic tank or other component of an on-site wastewater system shall result in the creation of pollution or contamination source on private property such that under the provisions of R.S.26:3-49, a local board of health would have the authority to notify the owner and require said owner to abate the same, representatives of an authority shall have the power to enter, at all reasonable times, any premises on which such pollution or contamination source shall exist, for the purpose of inspecting, rehabilitating, securing samples of any discharges, improving, repairing, replacing, or upgrading such septic tank or other component of an on-site wastewater system;

(9) To establish an inspection program to be performed at least once every 3 years on all on-site wastewater systems installed within its district which inspection program shall contain the following minimum notice provisions: (i) not less than 30 days prior to the date of the inspection of an on-site wastewater system as described herein, the authority shall notify the owner and resident of the property that the inspection will occur; and (ii) not less than 60 days prior to the date of the performance of any work other than an inspection, the sewerage authority shall provide notice to the owner and resident of the property on which the work will be performed. The notice to be provided to such owner and resident under this subsection shall include a description of the deficiency which necessitates the work and the

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proposed remedial action, and the proposed date for beginning and duration of the contemplated remedial action;

(10) To prepare and file in the office of the sewerage authority records of all inspections, rehabilitation, maintenance, and work, performed with respect to on-site wastewater disposal systems;

(11) To make and enforce bylaws or rules and regulations for the management and regulation of its business and affairs and for the use, maintenance and operation of the sewerage system and any other of its properties, and to amend the same;

(12) To do and perform any acts and things authorized by this act under, through or by means of its own officers, agents and employees, or by contracts with any persons;

(13) To enter into any and all contracts, execute any and all instruments, and do and perform any and all acts or things necessary, convenient or desirable for the purposes of the sewerage authority or to carry out any power expressly given in this act subject to the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.);

(14) To enter into any and all lease agreements with sewerage authorities, and municipalities, and counties operating sewerage systems, for the rental of equipment owned by authority and municipality and/or county, together with the personnel to operate said equipment; and

(15) Upon the request of a customer: (i) to offer the customer the ability to receive or access, in electronic format, any periodic bill for service sent by the sewerage authority to its customers and any additional information sent by the sewerage authority to its customers as required by law, provided that any notice of disconnection, discontinuance or termination of sewerage service shall be sent to a customer in written form at the customer's legal mailing address in addition to being sent or being made available in electronic format; and (ii) to provide the customer the option of paying any such periodic bill via electronic means.

2. Section 20 of P.L.1957, c.183 (C.40:14B-20) is amended to read as follows:

C.40:14B-20 Powers.

20. Every municipal authority shall be a public body politic and corporate constituting a political subdivision of the State established as an instrumentality exercising public and essential governmental functions to provide for the public health and welfare and shall have perpetual succession and have the following powers:

(1) To adopt and have a common seal and to alter the same at pleasure;

(2) To sue and be sued;

(3) In the name of the municipal authority and on its behalf, to acquire, hold, use and dispose of its service charges and other revenues and other moneys;

(4) In the name of the municipal authority but for the local unit or units, to acquire, rent, hold, lease as lessor, use and dispose of other personal property for the purposes of the municipal authority;

(5) In the name of the municipal authority but for the local unit or units and subject to the limitations of this act, to acquire by purchase, gift, condemnation or otherwise, or lease as lessee, real property and easements therein, necessary or useful and convenient for the purposes of the municipal authority, and subject to mortgages, deeds of trust or other liens, or otherwise, and to hold, lease as lessor, and to use the same, and to dispose of property so acquired no longer necessary for the purposes of the municipal authority;

(6) To produce, develop, purchase, accumulate, distribute and sell water and water services, facilities and products within or without the district, provided that no water shall be sold at retail in any municipality without the district unless the governing body of such municipality shall have adopted a resolution requesting the municipal authority to sell water at retail in such municipality, and the board of public utility commissioners shall have approved such resolution as necessary and proper for the public convenience;

(7) To provide for and secure the payment of any bonds and the rights of the holders thereof, and to purchase, hold and dispose of any bonds;

(8) To accept gifts or grants of real or personal property, money, material, labor or supplies for the purposes of the municipal authority, and to make and perform such agreements and contracts as may be necessary or convenient in connection with the procuring, acceptance or disposition of such gifts or grants;

(9) To enter on any lands, waters or premises for the purpose of making surveys, borings, soundings and examinations for the purposes of the municipal authority, and whenever the operation of a septic tank or other component of an on-site wastewater system shall result in the creation of pollution or contamination source on private property such that under the provisions of R.S.26:3-49, a local board of health would have the authority to notify the owner and require said owner to abate the same, representatives of an authority shall have the power to enter, at all reasonable times, any premises on which such pollution or contamination source shall exist, for the purpose of inspecting, rehabilitating, securing samples of any dis-

charges, improving, repairing, replacing, or upgrading such septic tank or other component of an on-site wastewater system;

(10) To establish an inspection program to be performed at least once every three years on all on-site wastewater systems installed within the district which inspection program shall contain the following minimum notice provisions: (i) not less than 30 days prior to the date of the inspection of any on-site wastewater system as described herein, the authority shall notify the owner and resident of the property that the inspection will occur; and (ii) not less than 60 days prior to the date of the performance of any work other than an inspection, the municipal authority shall provide notice to the owner and resident of the property in which the work will be performed. The notice to be provided to such owner and resident under this subsection shall include a description of the deficiency which necessitates the work and the proposed remedial action, and the proposed date for beginning and duration of the contemplated remedial action;

(11) To prepare and file in the office of the municipal authority records of all inspections, rehabilitation, maintenance, and work, performed with respect to on-site wastewater disposal systems;

(12) To make and enforce bylaws or rules and regulations for the management and regulation of its business and affairs and for the use, maintenance and operation of the utility system and any other of its properties, and to amend the same;

(13) To do and perform any acts and things authorized by this act under, through or by means of its own officers, agents and employees, or by contracts with any person;

(14) To enter into any and all contracts, execute any and all instruments, and do and perform any and all acts or things necessary, convenient or desirable for the purposes of the municipal authority or to carry out any power expressly given in this act subject to the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.);

(15) To extend credit or make loans to any person for the planning, designing, acquiring, constructing, reconstructing, improving, equipping, furnishing, and operating by that person of any part of a solid waste system, sewage treatment system, wastewater treatment or collection system for the provision of services and facilities within or without the district, which in the case of a solid waste system shall be in a manner consistent with the "Solid Waste Management Act," P.L.1970, c.39 (C.13:1E-1 et seq.) and in conformance with the solid waste management plans adopted by the solid waste management districts created therein. The credits or loans may be secured by loan and security agreements, mortgages, leases and any other

instruments, upon such terms as the authority shall deem reasonable, including provision for the establishment and maintenance of reserve and insurance funds, and to require the inclusion in any mortgage, lease, contract, loan and security agreement or other instrument, provisions for the construction, use, operation and maintenance and financing of that part of the aforementioned systems as the authority may deem necessary or desirable; and

(16) Upon the request of a customer: (i) to offer the customer the ability to receive or access, in electronic format, any periodic bill for service sent by the municipal authority to its customers and any additional information sent by the municipal authority to its customers as required by law, provided that any notice of disconnection, discontinuance or termination of service shall be sent to a customer in written form at the customer's legal mailing address in addition to being sent or being made available in electronic format; and (ii) to provide the customer the option of paying any such periodic bill via electronic means.

C.40:62-25.6 Municipality providing heat, light or power, electronic billing, payment, permitted.

3. Upon the request of a customer, a municipality providing heat, light or power may:

a. offer the customer the ability to receive or access, in electronic format, any periodic bill for service sent by such municipality to its customers and any additional information sent by the municipality to its customers as required by law, provided that any notice of disconnection, discontinuance or termination of service shall be sent to a customer in written form at the customer's legal mailing address in addition to being sent or being made available in electronic format; and

b. provide the customer of such municipality the option of paying any such periodic bill via electronic means.

C.40:62-107.7 Customers of municipal water district, electronic billing, payment permitted.

4. Upon the request of a customer, a municipality that has established a water district and which operates a water system may:

a. offer the customer the ability to receive or access, in electronic format, any periodic bill for service sent by such municipality to its customers and any additional information sent by the municipality to its customers as required by law, provided that any notice of disconnection, discontinuance or termination of water service shall be sent to a customer in

written form at the customer's legal mailing address in addition to being sent or being made available in electronic format; and

b. provide the customer of such municipality the option of paying any such periodic bill via electronic means.

C.40:62-148.1 Water commission customers, option for electronic billing, payment.

5. Upon the request of a customer, a water commission may:

a. offer the customer the ability to receive or access, in electronic format, any periodic bill for service sent by such water commission to its customers and any additional information sent by the water commission to its customers as required by law, provided that any notice of disconnection, discontinuance or termination of water service shall be sent to a customer in written form at the customer's legal mailing address in addition to being sent or being made available in electronic format; and

b. provide the customer of such water commission the option of paying any such periodic bill via electronic means.

6. N.J.S.40A:26A-5 is amended to read as follows:

Powers.

40A:26A-5. One or more local units adopting an ordinance or resolution in accordance with N.J.S.40A:26A-4 are authorized and empowered:

a. To acquire, construct, improve, extend, enlarge or reconstruct and finance sewerage facilities, and to operate, manage and control all or part of these facilities and all properties relating thereto;

b. To issue bonds of the local unit or units to pay all or part of the cost of the purchase, construction, improvement, extension, enlargement or reconstruction of sewerage facilities;

c. To receive and accept from the federal or State government, or any agency or instrumentality thereof, grants or loans for, or in aid of, the planning, purchase, construction, improvement, extension, enlargement or reconstruction, or financing of sewerage facilities, and to receive and accept from any source, contributions or money, property, labor or other things of value to be held, used and applied only for the purposes for which the grants or loans and contributions are made;

d. To acquire in the name of the local unit or units by gift, purchase, or by the exercise of the right of eminent domain, lands and rights and interests therein, including lands under water and riparian rights, and personal property as may be deemed necessary for acquisition, construction, improvement, extension, enlargement or reconstruction, or for the efficient operation of any facilities acquired or constructed under the provisions of

N.J.S.40A:26A-1 et seq. and to hold and dispose of all real and personal property so acquired;

e. To make and enter into all contracts and agreements necessary or incidental to the performance of the local unit's or units' duties and the execution of powers authorized under N.J.S.40A:26A-1 et seq., and to employ engineers, superintendents, managers, attorneys, financial or other consultants or experts, and other employees and agents as may be deemed necessary, and to fix their compensation;

f. Subject to the provisions and restrictions set forth in the ordinance or resolution authorizing or securing any bonds issued under the provisions of N.J.S.40A:26A-1 et seq., to enter into contracts with the federal or State Government, or any agency or instrumentality thereof, or with any other local unit, private corporation, copartnership, association or individual providing for, or relating to, sewerage services which contracts may provide for the furnishing of sewerage facility services either by or to the local unit or units, or the joint construction or operation of sewerage facilities;

g. To fix and collect rates, fees, rents and other charges in accordance with N.J.S.40A:26A-1 et seq.;

h. To prevent toxic pollutants from entering the sewerage system;

i. Upon the request of a customer: (1) to offer the customer the ability to receive or access, in electronic format, any periodic bill for service sent by the local unit or units to its customers and any additional information sent by the local unit or units to its customers as required by law, provided that any notice of disconnection, discontinuance or termination of sewerage service shall be sent to a customer in written form at the customer's legal mailing address in addition to being sent or being made available in electronic format; and (2) to provide the customer the option of paying any such periodic bill via electronic means; and

j. To exercise any other powers necessary or incidental to the effectuation of the general purpose of N.J.S.40A:26A-1 et seq.

7. N.J.S.40A:31-5 is amended to read as follows:

Powers.

40A:31-5. One or more local units adopting an ordinance or resolution in accordance with N.J.S.40A:31-4 are authorized and empowered:

a. Alone or in combination with a private water company or the State, to acquire, construct, improve, extend, enlarge or reconstruct and finance water supply facilities, and to operate, manage and control all or part of these facilities and all properties relating thereto;

b. To issue bonds of the local unit or units to pay all or part of the cost of the water supply facilities;

c. To receive and accept from the federal or State government, or any agency or instrumentality thereof, grants or loans for, or in aid of, the planning, purchase, construction, improvement, extension, enlargement or reconstruction, or financing of water supply facilities, and to receive and accept from any source, contributions or money, property, labor or other things of value to be held, used and applied only for the purposes for which the grants or loans and contributions are made;

d. To acquire in the name of the local unit or units by gift, purchase, or by the exercise of the right of eminent domain, such lands and rights and interests therein, including lands under water and riparian rights, and such personal property as may be deemed necessary for acquisition, construction, improvement, extension, enlargement or reconstruction, or for the efficient operation of any facilities acquired or constructed under the provisions of N.J.S.40A:31-1 et seq. and to hold and dispose of all real and personal property so acquired;

e. To make and enter into all contracts and agreements necessary or incidental to the performance of the local unit's or units' duties and the execution of powers authorized under N.J.S.40A:31-1 et seq., and to employ consulting and other engineers, superintendents, managers, attorneys, financial or other consultants or experts, and such other employees and agents as may be deemed necessary, and to fix their compensation;

f. Subject to the provisions and restrictions set forth in the ordinance or resolution authorizing or securing any bonds issued under the provisions of N.J.S.40A:31-1 et seq., to enter into contracts with the federal or State government, or any agency or instrumentality thereof, or with any other local unit, private corporation, copartnership, association or individual providing for, or relating to, water supply, which contracts may provide for the furnishing of water supply services either by or to the local unit or units, or the joint construction or operation of water supply facilities;

g. To fix and collect rates, fees, rents and other charges in accordance with N.J.S.40A:31-1 et seq.;

h. Upon the request of a customer: (1) to offer the customer the ability to receive or access, in electronic format, any periodic bill for service sent by the local unit or units to its customers and any additional information sent by the local unit or units to its customers as required by law, provided that any notice of disconnection, discontinuance or termination of water service shall be sent to a customer in written form at the customer's legal mailing address in addition to being sent or being made available in elec-

tronic format; and (2) to provide the customer the option of paying any such periodic bill via electronic means; and

i. To exercise any other powers necessary or incidental to the effectuation of the general purposes of N.J.S.40A:31-1 et seq.

8. Section 7 of P.L.1981, c.293 (C.58:1B-7) is amended to read as follows:

C.58:1B-7 Powers.

7. Except as otherwise limited by P.L.1981, c.293 (C.58:1B-1 et seq.), the authority shall have power:

a. To sue and be sued.

b. To have an official seal and alter the same at pleasure.

c. To make and alter bylaws for its organization and internal management and for the conduct of its affairs and business.

d. To maintain an office at such place or places within the State as it may determine.

e. To acquire, lease as lessee or lessor, rent, hold, use and dispose of real or personal property for its purposes.

f. To borrow money and to issue its negotiable bonds and to secure the same by a mortgage on its property or any part thereof and otherwise to provide for and secure the payment thereof and to provide for the rights of the holders thereof.

g. To fix and revise from time to time and charge and collect rents, fees and charges for any of the services rendered by the authority, which shall be equitably assessed.

h. To procure insurance against any losses in connection with its property, operations or assets in such amounts and from such insurers as it deems desirable.

i. Subject to any agreement with bondholders to invest moneys of the authority not required for immediate use, including proceeds from the sale of any bonds, in such obligations, securities and other investments as the authority shall deem prudent.

j. To appoint and employ an executive director and such additional officers who need not be members of the authority and accountants, financial advisors or experts and such other or different officers, agents and employees as it may require and determine their qualifications, terms of office, duties and compensation, all without regard to the provisions of Title 11A, Civil Service, of the New Jersey Statutes, except with respect to those officers and employees of the Water Supply Facilities Element who are trans-

ferred to the authority pursuant to section 24 of P.L.1981, c.293 (C.58:1B-24), and these officers and employees shall remain subject to the provisions of that Title.

k. To contract for and to accept any gifts or grants or loans of funds or property or financial or other aid in any form from the United States of America or any agency or instrumentality thereof, or from the State or any agency, instrumentality or political subdivision thereof, or from any other source and to comply, subject to the provisions of P.L.1981, c.293 (C.58:1B-1 et seq.), with the terms and conditions thereof.

l. To acquire, hold, rent, lease, use and dispose of real or personal property in the exercise of its powers and the performance of its duties under P.L.1981, c.293 (C.58:1B-1 et seq.).

m. To acquire, subject to the provisions of any other statute, in the name of the authority by purchase or otherwise, on such terms and conditions and in such manner as it may deem proper, except with respect to property owned by the State, by the exercise of the power of eminent domain, any land and other property, which it may determine is reasonably necessary for any of its projects and any and all rights, title and interest in that land and other property, including, providing there is no prudent and feasible alternative, public lands, reservations, highways or parkways, owned by or in which the State or any county, municipality, public corporation, or other political subdivision of the State has any right, title or interest, or parts thereof or rights therein and any fee simple absolute or any lesser interest in private property, and any fee simple absolute in, easements upon or the benefit of restrictions upon, abutting property to preserve and protect the project.

n. To do and perform any acts and things authorized by P.L.1981, c.293 (C.58:1B-1 et seq.) under, through, or by means of its officers, agents or employees or by contract with any person.

o. To establish and enforce rules and regulations for the use and operation of its projects and the conduct of its activities, and provide for the policing and the security of its projects.

p. Upon the request of a customer: (1) to offer the customer the ability to receive or access, in electronic format, any periodic bill for service sent by the local unit or units to its customers and any additional information sent by the local unit or units to its customers as required by law, provided that any notice of disconnection, discontinuance or termination of sewerage service shall be sent to a customer in written form at the customer's legal mailing address in addition to being sent or being made available in electronic format; and (2) to provide the customer the option of paying any such periodic bill via electronic means.

q. To do any and all things necessary or convenient to carry out its purposes in accordance with the powers given and granted in P.L.1981, c.293 (C.58:1B-1 et seq.).

C.58:5-26.1 Customers of district water supply commission, electronic billing, payment permitted.

9. Upon the request of a customer, a district water supply commission may:

a. offer the customer the ability to receive or access, in electronic format, any periodic bill for service sent by such district water supply commission to its customers and any additional information sent by the water commission to its customers as required by law, provided that any notice of disconnection, discontinuance or termination of water service shall be sent to a customer in written form at the customer's legal mailing address in addition to being sent or being made available in electronic format; and

b. provide the customer of such district water supply commission the option of paying any such periodic bill via electronic means.

C.58:14-37 Customers of Passaic Valley Sewerage Commissioners, electronic billing, payment permitted.

10. Upon the request of a customer, the Passaic Valley Sewerage Commissioners may:

a. offer the customer the ability to receive or access, in electronic format, any periodic bill for service sent by such commissioners to their customers and any additional information sent by the commissioners to their customers as required by law, provided that any notice of disconnection, discontinuance or termination of water service shall be sent to a customer in written form at the customer's legal mailing address in addition to being sent or being made available in electronic format; and

b. provide the customer the option of paying any such periodic bill of the commissioners via electronic means.

C.48:2-13.1a Customers of rural electric cooperative, electronic billing, payment permitted.

11. Upon the request of a customer, a rural electric cooperative may:

a. offer the customer the ability to receive or access, in electronic format, any periodic bill for service sent by such cooperative to its customers and any additional information sent by the cooperative to its customers as required by law, provided that any notice of disconnection, discontinuance or termination of service shall be sent to a customer in written form at

the customer's legal mailing address in addition to being sent or being made available in electronic format; and

b. provide the customer of such cooperative the option of paying any such periodic bill via electronic means.

12. This act shall take effect on the 180th day after the date of enactment, but such public provider of services affected by this act may take such anticipatory administrative action in advance thereof as shall be necessary for the implementation of this act.

Approved November 30, 2010.

CHAPTER 92

AN ACT concerning claims for victim compensation and amending P.L.1971, c.317.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Section 18 of P.L.1971, c.317 (C.52:4B-18) is amended to read as follows:

C.52:4B-18 Compensation for criminal injuries; two-year limitation of actions.

18. No order for the payment of compensation shall be made under section 10 of P.L.1971, c.317 (C.52:4B-10) unless the application has been made within two years after the date of the personal injury or death or after that date upon determination by the office that good cause exists for the delayed filing, and the personal injury or death was the result of an offense listed in section 11 of P.L.1971, c.317 (C.52:4B-11) which had been reported to the police or other appropriate law enforcement agency within three months after its occurrence or reasonable discovery. The office will make its determination regarding the application within six months of acknowledgment by the office of receipt of the completed application and any and all necessary supplemental information.

In determining the amount of an award, the office shall determine whether, because of his conduct, the victim of such crime contributed to the infliction of his injury, and the office shall reduce the amount of the award or

reject the application altogether, in accordance with such determination; provided, however, that the office shall not consider any conduct of the victim contributory toward his injury, if the record indicates such conduct occurred during efforts by the victim to prevent a crime or apprehend a person who had committed a crime in his presence or had in fact committed a crime.

The office may deny or reduce an award where the victim has not paid in full any payments owed on assessments imposed pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1) or restitution ordered following conviction for a crime.

No compensation shall be awarded if:

a. Compensation to the victim proves to be substantial unjust enrichment to the offender or if the victim did not cooperate with the reasonable requests of law enforcement authorities unless the victim demonstrates a compelling health or safety reason for not cooperating; or

b. (Deleted by amendment, P.L.1990, c.64.)

c. The victim was guilty of a violation of subtitle 10 or 12 of Title 2A or subtitle 2 of Title 2C of the New Jersey Statutes, which caused or contributed to his injuries; or

d. The victim was injured as a result of the operation of a motor vehicle, except as provided in subsection c. or d. of section 11 of P.L.1971, c.317 (C.52:4B-11), boat or airplane unless the same was used as a weapon in a deliberate attempt to run the victim down; or

e. The victim suffered personal injury or death while an occupant of a motor vehicle or vessel where the victim knew or reasonably should have known that the driver was operating the vehicle or vessel in violation of R.S.39:4-50, section 5 of P.L.1990, c.103 (C.39:3-10.13), section 19 of P.L.1954, c.236 (C.12:7-34.19), section 3 of P.L.1952, c.157 (C.12:7-46), subparagraph (b) of paragraph (2) of subsection b. of N.J.S.2C:20-2, subsection b. of N.J.S.2C:29-2 or subsection b., c. or d. of N.J.S.2C:20-10; or

f. The victim has been convicted of a crime and is still incarcerated; or

g. The victim sustained the injury during the period of incarceration immediately following conviction for a crime.

Except as provided herein, no compensation shall be awarded under P.L.1971, c.317 in an amount in excess of $25,000, and all payments shall be made in a lump sum, except that in the case of death or protracted disability the award may provide for periodic payments to compensate for loss of earnings or support. Five years after the entry of an initial determination order, a claim for compensation expires and no further order is to be entered with regard to the claim except:

(1) for requests for payment of specific out-of-pocket expenses received by the Victims of Crime Compensation Office prior to the expiration of the five-year period except in those cases determined by the office to be catastrophic in nature; or

(2) when the office determines that compelling circumstances exist justifying the payment of a claim beyond the five-year limit.

No award made pursuant to P.L.1971, c.317 shall be subject to execution or attachment other than for expenses resulting from the injury which is the basis of the claim.

Compensation may be awarded in an amount not exceeding the actual cost of a rehabilitative service of the type enumerated in section 2 of P.L.1999, c.166 (C.52:4B-18.2).

The award may provide for periodic payments in the case of protracted care or rehabilitative assistance.

2. This act shall take effect immediately.

Approved November 30, 2010.

CHAPTER 93

AN ACT concerning liability exposure for mortgage guaranty insurance companies and amending P.L.1968, c.248.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Section 3 of P.L.1968, c.248 (C.17:46A-3) is amended to read as follows:

C.17:46A-3 Capital, surplus and contingency reserve requirements.

3. Capital, surplus and contingency reserve requirements.

(a) An insurance company shall not transact the business of mortgage guaranty insurance unless it has paid-in capital of at least $1,000,000.00 and paid-in surplus of at least $1,000,000.00.

(b) In addition to the paid-in capital and surplus provided in subsection (a), each mortgage guaranty insurance company shall establish a contingency reserve out of net premiums remaining (gross premiums less premiums returned to policyholders) after establishment of the unearned pre-

mium reserve. To the contingency reserve the insurance company shall contribute an amount equal to 50% of such remaining premiums. The yearly contributions to the contingency reserve made during each calendar year shall be maintained for a period of 180 months, except that withdrawals may be made by the insurance company in any given year in which the actual losses exceed the expected losses. The commissioner shall, by regulation, determine when an insurance company may make withdrawals from its contingency reserve.

(c) (1) Except as provided in paragraph (2) of this subsection, a mortgage guaranty insurance company shall not at any time have outstanding a total liability under its aggregate insurance policies exceeding 25 times its policyholders' surplus, such liability to be computed on the basis of the insurance company's liability under its election as provided in subsection (c) of section 4 of P.L.1968, c.248 (C.17:46A-4). In the event that any insurance company has outstanding total liability exceeding 25 times its policyholders' surplus, it shall cease transacting new business until such time as its total liability no longer exceeds 25 times its policyholders' surplus.

(2) On and after the first day of the third month following enactment of P.L.2010, c.93 and continuing for the 36 months thereafter, the commissioner may waive the limit on liability exposure set forth under paragraph (1) of this subsection at the written request of a mortgage guaranty insurance company. The commissioner may approve the request of the mortgage guaranty insurance company upon a finding that the company's financial position is reasonable in relation to the company's outstanding total liability under its aggregate insurance policies, as well as adequate to its financial needs. A company granted a waiver pursuant to this paragraph shall submit quarterly reports to the commissioner concerning the company's financial condition. The commissioner shall promulgate regulations concerning the process for a mortgage guaranty insurance company to submit a written request pursuant to this paragraph, and concerning the information to be indicated in the quarterly reports. The regulations shall specify the information deemed necessary by the commissioner to review the request and any factors to be considered in approving or disapproving the request. The commissioner shall provide an annual briefing to the Assembly Financial Institutions and Insurance Committee and the Senate Commerce Committee, or their successors, on the financial condition of the mortgage guaranty insurance industry.

(d) A mortgage guaranty insurance company shall not declare any dividends except from undivided profits remaining on hand over and above the aggregate of its paid-in capital, paid-in surplus and contingency reserve.

2. This act shall take effect on the first day of the third month next following enactment, but the Commissioner of Banking and Insurance may take any anticipatory administrative action in advance thereof as shall be necessary for the implementation of this act.

Approved November 30, 2010.

CHAPTER 94

AN ACT concerning the health of student-athletes and supplementing P.L.1984, c.203 (C.45:9-37.35 et seq.) and chapter 40 of Title 18A of the New Jersey Statutes.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

C.18A:40-41.1 Findings, declarations relative to head injuries of student athletes.

1. The Legislature finds and declares that:

a. A concussion is caused by a blow or motion to the head or body that disrupts the normal functioning of the brain, and can cause significant and sustained neuropsychological impairments including, but not limited to, problem solving, planning, memory, and behavioral problems;

b. The federal Centers for Disease Control and Prevention estimates that 300,000 concussions are sustained during sports-related activity in the United States, and more than 62,000 concussions are sustained each year in high-school contact sports;

c. Although concussions are one of the most commonly reported injuries in children and adolescents who participate in sports and recreational activities, little effort and resources have been committed to inform athletes, coaches, and parents and guardians about the causes and symptoms of concussions;

d. If a person sustains a second concussion while still having symptoms of a previous concussion, it can lead to the severe impairment and even the death of the victim, and is referred to as second-impact syndrome; and

e. In order to ensure the safety of student-athletes, it is imperative that athletes, coaches, and parents and guardians are educated about the nature and treatment of concussions and other sports-related head injuries, and that all measures are taken to prevent a student-athlete from experiencing second-impact syndrome.

C.18A:40-41.2 Interscholastic athletic head injury safety training program.

2. a. The Department of Education shall work to develop and implement, by the 2011-2012 school year, an interscholastic athletic head injury safety training program. The program shall be completed by a school physician, a person who coaches a public school district or nonpublic school interscholastic sport, and an athletic trainer involved in a public or nonpublic school interscholastic sports program. The safety training program shall include, but need not be limited to, the following:

(1) the recognition of the symptoms of head and neck injuries, concussions, and injuries related to second-impact syndrome; and

(2) the appropriate amount of time to delay the return to sports competition or practice of a student-athlete who has sustained a concussion or other head injury.

b. The department shall update the safety training program as necessary to ensure that it reflects the most current information available on the nature, risk, and treatment of sports-related concussions and other head injuries.

c. The department shall develop an educational fact sheet that provides information about sports-related concussions and other head injuries. A school district or a nonpublic school that participates in an interscholastic sports program shall distribute the educational fact sheet annually to the parents or guardians of student-athletes and shall obtain a signed acknowledgment of the receipt of the fact sheet by the student-athlete and his parent or guardian.

C.18A:40-41.3 Written policy for school district concerning prevention, treatment of sports-related head injuries.

3. a. Each school district shall develop a written policy concerning the prevention and treatment of sports-related concussions and other head injuries among student-athletes. The policy shall include, but need not be limited to, the procedure to be followed when it is suspected that a student-athlete has sustained a concussion or other head injury. When developing the district policy, a school district shall review the model policy established by the Commissioner of Education pursuant to subsection b. of this section, the policies established by the New Jersey State Interscholastic Athletic Association, the National Collegiate Athletic Association, and the recommendations made by the Brain Injury Association of New Jersey Concussion in Sports Steering Committee, the Athletic Trainers' Society of New Jersey, and other organizations with expertise in the area of preventing or treating sports-related concussions and other head injuries among stu-

dent-athletes. Each school district shall implement the policy by the 2011-2012 school year.

The policy shall be reviewed annually, and updated as necessary, by the district to ensure that it reflects the most current information available on the prevention, risk, and treatment of sports-related concussions and other head injuries.

b. To assist school districts in developing policies concerning the prevention and treatment of sports-related concussions and other head injuries among student-athletes, the Commissioner of Education shall develop a model policy applicable to grades kindergarten through 12. This model policy shall be issued no later than March 31, 2011.

C.18A:40-41.4 Removal of student athlete from competition, practice; return.

4. A student who participates in an interscholastic sports program and who sustains or is suspected of having sustained a concussion or other head injury while engaged in a sports competition or practice shall be immediately removed from the sports competition or practice. A student-athlete who is removed from competition or practice shall not participate in further sports activity until he is evaluated by a physician or other licensed health-care provider trained in the evaluation and management of concussions, and receives written clearance from a physician trained in the evaluation and management of concussions to return to competition or practice.

C.18A:40-41.5 Immunity from liability.

5. a. A school district and nonpublic school shall not be liable for the injury or death of a person due to the action or inaction of persons employed by, or under contract with, a youth sports team organization that operates on school grounds, if the youth sports team organization provides the district or nonpublic school, as applicable, with the following:

(1) proof of an insurance policy of an amount of not less than $50,000 per person, per occurrence insuring the youth sports team organization against liability for any bodily injury suffered by a person; and

(2) a statement of compliance with the school district or nonpublic school's policies for the management of concussions and other head injuries.

b. As used in this section, a "youth sports team organization" means one or more sports teams organized pursuant to a nonprofit or similar charter or which are member teams in a league organized by or affiliated with a county or municipal recreation department.

C.45:9-37.48a Continuing education requirement for athletic trainer.

6. a. The State Board of Medical Examiners shall require each person licensed as an athletic trainer, as a condition for biennial license renewal pursuant to section 14 of P.L.1984, c.203 (C.45:9-37.48), to complete 24 credits of continuing athletic trainer education, which shall include a specific number of credits of instruction on topics related to concussions and head injuries, as determined by the State Board of Medical Examiners.

b. The board shall:

(1) establish standards for continuing athletic trainer education, including the subject matter and content of courses of study; and

(2) accredit education programs offering credit toward continuing athletic trainer education requirements or recognize national or State organizations that may accredit education programs.

c. Each hour of an educational course or program shall be equivalent to one credit of continuing athletic trainer education.

d. The board may, in its discretion, waive requirements for continuing athletic trainer education on an individual basis for reasons of hardship such as illness or disability, retirement of license, or other good cause. A waiver shall apply only to the current biennial renewal period at the time of board issuance.

e. The board shall not require completion of continuing athletic trainer education credits for any licensure period commencing within 12 months of the effective date of this section.

f. The board shall require completion of athletic trainer education credits on a pro-rated basis for any registration period commencing more than 12 months but less than 24 months from the effective date of this section.

g. Prior to license renewal, each licensee shall submit to the board proof of completion of the required number of hours of continuing athletic trainer education.

7. Sections 1 through 5 of this act shall take effect immediately and section 6 shall take effect on the 360th day after the date of enactment.

Approved December 7, 2010.

CHAPTER 95

AN ACT concerning health care provider billing for certain patients and supplementing Titles 26 and 45 of the Revised Statutes.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

C.26:2H-12.60 Submission of bill to Medicare beneficiary by health care facility; reporting of nonpayment.

1. a. A health care facility licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.), which provides a health care service to a Medicare beneficiary, shall bill the beneficiary, within 90 days from the date the payment from Medicare or other third party payer is finalized for any amounts due and owing for the service that are not reimbursed by the Medicare program or other third party payer.

b. In the event the health care facility does not submit a bill to the beneficiary within 90 days from the date the payment from Medicare or other third party payer is finalized, the health care facility shall not be permitted to report any nonpayment of the bill by the beneficiary to a consumer reporting agency.

c. A health care facility that violates the provisions of this section shall be subject to such penalties as the Commissioner of Health and Senior Services may determine pursuant to sections 13 and 14 of P.L.1971, c.136 (C.26:2H-13 and 26:2H-14).

d. As used in this section:

"Consumer reporting agency" means any person which, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages, in whole or in part, in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties, and which uses any means or facility for the purpose of preparing or furnishing consumer reports.

C.45:1-53 Submission of bill to Medicare beneficiary by health care professional; reporting of nonpayment.

2. a. A health care professional licensed pursuant to Title 45 of the Revised Statutes, who provides a health care service to a Medicare beneficiary, shall bill the beneficiary, within 90 days from the date the payment from Medicare or other third party payer is finalized for any amounts due and owing for the service that are not reimbursed by the Medicare program or other third party payer.

b. In the event the health care professional does not submit a bill to the beneficiary within 90 days from the date the payment from Medicare or other third party payer is finalized, the health care professional shall not be permitted to report any nonpayment of the bill by the beneficiary to a consumer reporting agency.

c. A health care professional who violates the provisions of this section shall be subject to such penalties as the Director of Consumer Affairs in the Department of Law and Public Safety may determine pursuant to sections 9 and 12 of P.L.1978, c.73 (C.45:1-22 and 45:1-25).

d. As used in this section:

"Consumer reporting agency" means any person which, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages, in whole or in part, in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties, and which uses any means or facility for the purpose of preparing or furnishing consumer reports.

3. This act shall take effect on the 90th day after enactment and shall apply to health care services provided on or after the effective date.

Approved December 8, 2010.

CHAPTER 96

AN ACT concerning school facilities projects and amending and supplementing P.L.2000, c.72.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

C.18A:7G-24.1 Information submitted by the New Jersey Schools Development Authority.

1. Notwithstanding any provision of law, rule, or regulation to the contrary, the New Jersey Schools Development Authority established pursuant to section 3 of P.L.2007, c.137 (C.52:18A-237), shall biannually compile information for inclusion in the biannual report required to be submitted by the development authority pursuant to section 24 of P.L.2000, c.72 (C.18A:7G-24) on the number of school facilities project construction contracts entered into between the development authority and minority and women contractors during the prior six-month period covered in the report. The information shall include the total value of the contracts and the percentage that those contracts represent of all school facilities project contracts entered into between the development authority and contractors in the prior six-month period.

2. Section 24 of P.L.2000, c.72 (C.18A:7G-24) shall be amended to read as follows:

C.18A:7G-24 Biannual report on school facilities construction program.

24. The development authority, in consultation with the State Treasurer, the financing authority, and the commissioner, shall biannually submit to the Governor, the Joint Budget Oversight Committee, the President of the Senate and the Speaker of the General Assembly a report on the school facilities construction program established pursuant to the provisions of this act. The report shall be submitted no later than June 1 and December 1 of each year and shall include, but not be limited to, the following information for the prior six-month period: the number of school facilities projects approved by the commissioner pursuant to section 5 of P.L.2000, c.72 (C.18A:7G-5); the number of projects undertaken and funded by the development authority; the information on construction contracts required to be compiled pursuant to section 1 of P.L.2010, c.96 (C.18A:7G-24.1); the aggregate principal amount of bonds, notes or other obligations issued by the financing authority for the State share of construction and renovation of school facilities and whether there is a need to adjust the aggregate principal amount of bonds, notes or other obligations authorized for issuance pursuant to subsection a. of section 14 of P.L.2000, c.72 (C.18A:7G-14); the number of approved projects which exceeded the facilities efficiency standards, the components of those projects which exceeded the standards, and the amount of construction by individual districts and Statewide estimated to have exceeded the standards; and recommendations for changes in the school facilities construction program established pursuant to this act which have been formulated as a result of its experience with the program or through collaboration with program stakeholders.

In addition, the biannual report shall include a comparison of the costs of school facilities projects undertaken and funded by the development authority to similar school facilities projects constructed in the New York City Metropolitan Statistical Area and the Philadelphia Metropolitan Statistical Area as defined by the United States Department of Labor. The development authority shall include in the report an explanation of the methodology used in making the comparison.

3. This act shall take effect immediately.

Approved December 8, 2010.

CHAPTER 97

AN ACT concerning vacant teaching positions and supplementing Title 18A of the New Jersey Statutes.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

C.18A:16-1.1a Filling of vacant teaching position; time limit.

1. A vacant teaching position shall not be filled in any school year by one or more individuals holding a substitute credential issued by the State Board of Education pursuant to the provisions of N.J.S.18A:6-38 for a total amount of time exceeding 20 school days. The commissioner may grant an extension of up to an additional 20 school days upon written application from the school district demonstrating the district's inability to hire an appropriately certified teacher for the vacant position within the original 20-day time limit.

2. This act shall take effect immediately.

Approved December 8, 2010.

CHAPTER 98

AN ACT concerning minors under the care of the Division of Youth and Family Services and supplementing Chapter 4C of Title 30 of the Revised Statutes.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

C.30:4C-26.20 Minor and child to remain together as family unit.

1. a. Notwithstanding any other provision of law to the contrary, if a minor is placed in a resource family home, group home, or institution, pursuant to section 26 of P.L.1951, c.138 (C.30:4C-26), and is pregnant, becomes pregnant, or gives birth to a child while in the placement, the Division of Youth and Family Services in the Department of Children and Families shall provide or arrange for the provision of services to ensure that the minor and her child remain together as a family unit.

b. A Division of Youth and Family Services caseworker shall develop and implement a permanency plan for the minor and her child that will en-

able the minor to provide a safe and stable home for her child, and shall not limit the minor's legal right to make decisions regarding the care, custody, and supervision of her child. The plan shall address, but shall not be limited to, the following areas:

(1) counseling and advocacy services;

(2) information about and referral to physicians, certified nurse midwives, and other health care professionals providing prenatal care;

(3) medical care, including hospital, maternity, postnatal, and preventive pediatric services; and

(4) maintenance services, including, clothing, food, housing, and financial assistance.

c. If, as a result of the minor's pregnancy or birth of her child, the minor's current placement is no longer available, is inappropriate, or could result in harm to the minor or her child, the caseworker shall locate and place the minor and her child together in a substitute living arrangement.

d. The Division of Youth and Family Services shall not be required to arrange or provide for services to the minor and her child pursuant to subsection a. of this section, if the division has reasonable cause to believe that the minor's child has been subjected to child abuse or acts of child abuse or neglect by the minor.

e. For purposes of this section, "minor" means a person 21 years of age or younger who is under the care and supervision or custody of the Division of Youth and Family Services pursuant to section 12 of P.L.1951, c.138 (C.30:4C-12).

C.30:4C-26.21 Rules, regulations.

2. The Commissioner of Children and Families shall adopt rules and regulations, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate the purposes of this act.

3. This act shall take effect on the 180th day following enactment.

Approved December 8, 2010.

CHAPTER 99

AN ACT concerning the formation of State college risk management groups and joint liability funds, supplementing chapter 64 of Title 18A of the New Jersey Statutes and amending P.L.2007, c.56.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

C.18A:64-86 Definitions relative to State college risk management groups, joint liability funds.

1. As used in this act:

"Board of trustees" or "trustees" means the board of trustees established pursuant to the bylaws of the State college risk management group to govern or manage the risk management programs, joint liability funds, and related services of the group.

"Certified audit" means an audit upon which an auditor expresses a professional opinion that the accompanying statements present fairly the financial position of a joint liability fund in conformity with generally accepted accounting principles consistently applied, and includes tests of the accounting records and other auditing procedures as considered necessary in the circumstances.

"Commissioner" means the Commissioner of Banking and Insurance.

"Contributions" means the moneys paid by a member of a State college risk management group in amounts as may be set by the board of trustees or other officers as provided in the group's bylaws for the purposes of participating in a joint liability fund or funds, or securing risk management programs or related services.

"Joint liability fund" or "fund" means a joint liability fund established by a State college risk management group pursuant to this act. The joint liability fund is a fund of public moneys from contributions made by members of a State college risk management group for the purpose of securing insurance, risk management programs, or related services as authorized by this act.

"State college" means any of the State colleges or universities established pursuant to chapter 64 of Title 18A of the New Jersey Statutes.

"State college risk management group" or "group" means an association formed by two or more State colleges for the development, administration, and provision of risk management programs, joint liability funds for the payment of liabilities incurred by the State colleges and not funded by the State of New Jersey pursuant to the provisions of the "New Jersey Tort Claims Act," N.J.S.59:1-1 et seq., and related services.

"Risk management program" means a plan, and activities carried out under the plan, by a State college risk management group to reduce risk of loss with respect to liabilities incurred by the State colleges, including safety engineering and other loss prevention and control techniques. A risk

management program also includes the administration of one or more joint liability funds, including the processing and defense of claims brought against or on behalf of members of the group.

C.18A:64-87 State college authorized to insure, contract, provide for certain insurable interests.

2. A State college is authorized to insure, contract or provide for any insurable interest of the State college in the manner authorized by section 3 of this act, for the following:

a. Any loss or damage to its property, real or personal, motor vehicles, equipment or apparatus;

b. Loss or damage from liability as established by the "New Jersey Contractual Liability Act," N.J.S.59:13-1 et seq.;

c. Loss or damage from liability as established by the workers' compensation law, R.S.34:15-1 et seq.; and

d. Expenses of defending any claim against the State college, trustee, officer, employee or servant arising out of and in the course of the performance of their duties, whether or not liability exists on the claim, not eligible for defense and indemnification by the State of New Jersey in accordance with the provisions of the "New Jersey Tort Claims Act," N.J.S.59:1-1 et seq.

C.18A:64-88 Formation of, membership in, State college risk management group.

3. a. Any two or more State colleges may form and become members of a State college risk management group. A State college may take this action by resolution of the board of trustees of the State college. Through membership in a State college risk management group, a State college may participate in any joint liability funds, risk management programs or related services offered or provided by the group. The group shall have the power to establish funds for coverages authorized in section 2 of this act and to jointly purchase insurance or coverages under a master policy or contract of insurance for participating members. The group shall have the power to take other actions necessary to developing, administering, and providing risk management programs, joint liability funds, joint insurance purchases, and related services.

b. The bylaws of the State college risk management group shall provide that any State college may join the group, provided it agrees to comply with the standards for membership, including risk management programs, which shall be established by the group, and may be a member as long as it complies with the standards for membership.

c. A State college risk management group may sue or be sued for the liabilities and coverages authorized by section 2 of this act and shall appoint a natural person residing in this State or a corporation authorized to do business in this State as its agent for service of process. The group shall notify the commissioner and the Office of the Attorney General of the appointment.

d. A State college risk management group shall not be considered or deemed to be an insurance company or an insurer under the laws of this State and the development, administration or provision by a group of joint liability funds, risk management programs, and related services shall not constitute the transaction of insurance or the conducting of an insurance business. A group shall not be subject to the provisions of Title 17, Subtitle 3 of the Revised Statutes.

C.18A:64-89 Bylaws of State college risk management group.

4. a. The bylaws of a State college risk management group shall:

(1) set forth a statement of purposes of the group;

(2) set forth provisions for organization of the group, including governance by a board of trustees;

(3) provide for the delivery of risk management programs in conjunction with any joint liability fund which the board of trustees shall establish;

(4) set forth procedures to enforce the collection of any contributions or payments in default;

(5) set forth membership standards as required in section 3 of this act;

(6) require that, for each joint liability fund, a contract or contracts of specific and aggregate excess insurance or reinsurance is maintained, if available, unless otherwise recommended by the trustees upon the advice and report of an independent actuary;

(7) set forth procedures for:

(a) withdrawal from the group and a fund by a member;

(b) termination of the group or fund and disposition of assets; and

(c) determining the obligations, if any, of a member in the event that the group is unable to pay indemnification obligations and expenses payable from a fund administered by it;

(8) require an annual certified audit to be prepared and filed with the commissioner;

(9) require that any joint liability fund be developed and operated in accordance with accepted and sound actuarial practices;

(10) provide that any expenditure of moneys in a fund be in furtherance of the purpose of the fund; and

(11) set forth other provisions as desired for operation and governance of the group.

b. The bylaws of a State college risk management group shall provide for governance of the group by a board of trustees selected in accordance with the provisions of the bylaws. The bylaws shall provide for trustee powers and duties and shall include, but not be limited to, the following powers of the board of trustees:

(1) to determine and establish contributions and rates, loss reserves, surplus, limits of coverage, limits of excess or reinsurance, coverage documents, dividends and other financial and operating policies of the group or fund;

(2) to invest moneys held in trust under a fund in investments which are approved for investment by regulation of the State Investment Council for surplus moneys of the State;

(3) to purchase, acquire, hold, lease, sell and convey real and personal property, all of which property shall be exempt from taxation under chapter 4 of Title 54 of the Revised Statutes;

(4) to collect and disburse all money due to or payable by the group, or authorize such collection and disbursement;

(5) to enter into contracts with other persons or with public bodies of this State for any professional, administrative or other services as may be necessary to carry out the purposes of the group or any fund;

(6) to purchase and serve as the master policyholders, if desired, for any insurance, including excess or reinsurance; and

(7) to do all other things necessary and proper to carry out the purposes for which the group is established.

C.18A:64-90 Board of trustees of State college risk management group.

5. a. The board of trustees of a State college risk management group shall have not less than three or more than 15 trustees. A trustee shall be a natural person 18 years of age or older who is a resident of this State. A majority of the trustees of a group shall be members or employees of member State colleges, provided that a trustee who ceases to be a member or employee of a State college may be allowed to serve for not more than 90 days following cessation without violating this provision.

b. A trustee shall not be paid a salary, except that the written trust instrument may provide for reimbursement for actual expenses incurred on behalf of the fund and for compensation not to exceed $200 for any day or portion of a day spent at a meeting of the trustees. Except as otherwise provided in this act, a trustee shall not enter into any contract with the group or

receive any moneys or other compensation or thing of value whatsoever from the group for services performed for or on behalf of the group.

C.18A:64-91 Bylaws required for functioning; annual report.

6. a. A State college risk management group, or any joint liability fund of the group, shall not begin functioning as a means of providing coverage or protection for or among its members until the group's bylaws have been filed with and approved by the commissioner. The commissioner may disapprove the bylaws only if the bylaws do not conform with the provisions of this act. The commissioner shall set forth the reasons for disapproval in writing. If the commissioner fails to approve or disapprove the bylaws within 60 days following filing of the bylaws with the commissioner, the bylaws shall be deemed approved. The reasonable costs of the commissioner's review of the bylaws shall be chargeable to the State colleges seeking to establish the group.

b. A State college risk management group shall file an annual report, on a form to be prescribed by the commissioner, and shall include a financial statement of the group's assets and liabilities, the claims paid during the preceding 12 months, current reserves, incurred losses, and any other information that the commissioner may require.

c. The commissioner shall have authority to examine the books, records and affairs of any State college risk management group or any of its liability funds at a time to be fixed by the commissioner. The reasonable costs of any examination or review shall be chargeable to the State college risk management group.

d. If at any time the commissioner determines that the State college risk management group has experienced a deterioration in its financial condition which adversely affects or will adversely affect its ability to pay expected losses, the commissioner may:

(1) require an increase in the reserves of the group as required by section 4 of this act; or

(2) require the purchase of excess insurance or reinsurance.

C.18A:64-92 Appropriation, payment of funds for premiums.

7. Funds for premiums required by the contract between the governing body of the State college and the board of trustees of the State college risk management group shall be appropriated and paid as set forth in the contract in the same manner as appropriations are made for other expenses of the State college.

C.18A:64-93 Rules, regulations.

8. The Commissioner of Banking and Insurance shall promulgate rules and regulations necessary to effectuate the purposes of this act pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). The rules and regulations shall include, but not be limited to, the establishment, operation, modification and dissolution of a State college joint liability fund established pursuant to the provisions of this act.

9. Section 3 of P.L.2007, c.56 (C.52:18A-221) is amended to read as follows:

C.52:18A-221 Mission of the division.

3. The mission of the division shall be to implement a well-coordinated strategy to identify and respond to the needs of the various departments and agencies of State Government in this regard. Specifically, the division shall:

a. Procure insurance coverage, if appropriate, for any or all of the various departments and agencies of State Government, other than State colleges that procure coverage through risk management programs, joint liability funds, or joint insurance programs pursuant to P.L.2010, c.99 (C.18A:64-86 et seq.) and independent authorities and instrumentalities of the State, including, as otherwise required by law or as appropriate, coverage through self-insurance and use of third party administrators;

b. Assist the various departments and agencies of State Government in developing sound plans of risk management, including developing programs to protect physical assets, and developing and implementing safety programs to mitigate both the frequency and severity of accidental loss and by reviewing these plans and programs from time to time;

c. Administer the processing of all claims for the various self-administered and self-funded insurance programs of State agencies and departments, with litigation support from the Department of Law and Public Safety, except those claims processed by risk management programs, joint liability funds, or joint insurance programs established by State colleges pursuant to P.L.2010, c.99 (C.18A:64-86 et seq.);

d. Compile and distribute, on a monthly basis, accident frequency reports to the Governor, the commissioner of each principal department of State Government, and the Legislature. These reports shall track each department's current accident rate compared to historical trends and shall include summaries of any protocols in place to reduce risk; and

e. Continue all of the previous functions and responsibilities of the Bureau of Risk Management, in addition to those listed in this section, and develop new strategies and programs, as appropriate.

10. This act shall take effect immediately.

Approved December 8, 2010.

CHAPTER 100

AN ACT concerning vacant teaching positions and supplementing Title 18A of the New Jersey Statutes.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

C.18A:16-1.1b Time limit for substitute teacher working in area authorized by credentials.

1. a. A vacant teaching position shall not be filled in any school year by one or more individuals employed as substitute teachers and holding a certificate of eligibility or a certificate of eligibility with advanced standing issued by the State Board of Examiners and working in an area authorized by their credentials for a total amount of time exceeding 60 school days. The executive county superintendent of schools may grant an extension upon written application from the school district demonstrating the district's inability to hire an appropriately certified teacher for the vacant position within the original 60-day time limit.

b. In the event that one individual employed pursuant to subsection a. of this section is employed in the same position for more than 60 days, he shall be compensated by the school district on a pro-rata basis consistent with the salary provided to a teacher with similar credentials in the employing district.

C.18A:16-1.1c Limit on time for substitute teacher working in area not authorized by credentials.

2. A vacant teaching position shall not be filled in any school year by one or more individuals employed as substitute teachers and holding a certificate of eligibility or a certificate of eligibility with advanced standing issued by the State Board of Examiners and working in an area not author-

ized by their credentials for a total amount of time exceeding 20 school days. The executive county superintendent of schools may grant an extension of up to an additional 20 days upon written application from the school district demonstrating the district's inability to hire an appropriately certified teacher for the vacant position within the original 20-day time limit.

C.18A:16-1.1d Limit of time for substitute teacher holding standard instructional certificate.

3. A vacant teaching position shall not be filled in any school year by one or more individuals employed as substitute teachers and holding a standard instructional certificate issued by the State Board of Examiners and working in an area not authorized by their credentials for a total amount of time exceeding 40 school days.

4. This act shall take effect immediately.

Approved December 8, 2010.

CHAPTER 101

AN ACT concerning biofuels and supplementing Title 52 of the Revised Statutes.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

C.52:34-6.6 Findings, declarations relative to biofuels.

1. The Legislature finds and declares that:

a. New Jersey is one of the leading states in the nation in the advancement of alternative energy technologies.

b. Attaining independence from our traditional reliance on petroleum-based fossil fuels has been a long-standing objective for the State.

c. Reducing our fossil-fuel dependence by shifting to greater use of clean energy from indigenous renewable resources, such as biofuel, has the potential to significantly improve local air quality, reduce the State's dependence on foreign oil, and reduce Statewide greenhouse gas emissions.

d. It is in the public interest for the State to advance biofuel technologies by adopting policies that foster the production and purchase of biofuels as means to promote alternative energy technologies, reduce greenhouse gas emissions, and reduce reliance on petroleum-based fossil fuels.

C.52:34-6.7 Definitions relative to biofuels.

2. As used in this act:

"Biofuel" means liquid or gaseous fuels produced from organic sources such as sustainably grown and harvested crops including native noninvasive energy crops, agricultural residues and non-recycled organic waste including waste cooking oil, grease and food wastes, sewage and algae.

"Energy crops" means crops grown exclusively for energy production, including switchgrass and poplar.

"State entity" means a department, agency, or office of State government, a State university or college, or an authority created by the State.

C.52:34-6.8 State agencies to consider use of biofuels.

3. a. Notwithstanding the provisions of any law, rule, regulation or order to the contrary, State entities shall consider the use of biofuels to replace the use of petroleum-based fossil fuels in order to meet the State's goals of reducing dependence on fossil fuels, promoting the production and purchase of clean energy fuels, and reducing greenhouse gas emissions.

b. A State entity shall purchase and use biofuels to replace petroleum-based fossil fuels for heating equipment, or other similar combustion systems, motor vehicles, or other motorized equipment, if the State entity determines that the cost of biofuels for the purpose in question is the same or less than the cost of fossil fuels for that purpose, and if the State entity further determines that the use of biofuels to replace fossil fuels for that purpose is reasonable, prudent and cost effective.

4. This act shall take effect immediately.

Approved December 8, 2010.

CHAPTER 102

AN ACT regulating private transfer fees and supplementing Title 46 of the Revised Statutes.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

C.46:3-28 Declarations, findings relative to private transfer fees.

1. The Legislature declares that the public policy of this State favors the marketability of real property and the transferability of interests in real property free of title defects or unreasonable restraints on alienation. The

Legislature finds that private transfer fee obligations impair the marketability and transferability of real property by constituting an unacceptable restraint on alienation regardless of the duration of the obligation to pay a private transfer fee, the amount of a private transfer fee, or the method by which any private transfer fee is created or imposed. The Legislature declares that a private transfer fee obligation shall not run with the title to property or bind subsequent owners of property under common law or equitable principles.

C.46:3-29 Definitions relative to private transfer fees.

2. As used in P.L.2010, c.102 (C.46:3-28 et seq.):

"Transfer" means the sale, gift, conveyance, assignment, inheritance, or other transfer of an ownership interest in real property located in the State of New Jersey.

"Private transfer fee" means a fee or charge required by a private transfer fee obligation and payable upon the transfer of an interest in real property, or payable for the right to make or accept such transfer, regardless of whether the fee or charge is a fixed amount or is determined as a percentage of the value of the property, the purchase price, or other consideration given for the transfer. The following are not private transfer fees for purposes of P.L.2010, c.102 (C.46:3-28 et seq.):

a. (1) Any consideration payable by the grantee to the grantor for the interest in real property being transferred, including any subsequent additional consideration for the property payable by the grantee based upon any subsequent appreciation, development, or sale of the property, provided such additional consideration is payable on a one-time basis only and obligation to make such payment does not bind successors in title to the property. For the purposes of this subsection, an interest in real property may include a separate mineral estate and its appurtenant surface access rights.

(2) Any subsequent additional consideration payable to the grantor of an interest in unimproved real property by the first successor-in-interest to the original grantee, provided that the additional consideration is payable on a one-time basis only and follows the construction of an improvement on the property.

b. Any commission payable to a licensed real estate broker for the transfer of real property pursuant to an agreement between the broker and the grantor or the grantee, including any subsequent additional commission for that transfer payable by the grantor or the grantee based upon any subsequent appreciation, development, or sale of the property.

c. Any interest, charges, fees, or other amounts payable by a borrower to a lender pursuant to a loan secured by a mortgage against real property, including, but not limited to, any fee payable to the lender for consenting to an assumption of the loan or a transfer of the real property subject to the mortgage, any fees or charges payable to the lender for estoppel letters or certificates, and any shared appreciation interest or profit participation or other consideration and payable to the lender in connection with the loan.

d. Any rent, reimbursement, charge, fee, or other amount payable by a lessee to a lessor under a lease, including, but not limited to, any fee payable to the lessor for consenting to an assignment, subletting, encumbrance, or transfer of the lease.

e. Any consideration payable to the holder of an option to purchase an interest in real property or the holder of a right of first refusal or first offer to purchase an interest in real property for waiving, releasing, or not exercising the option or right upon the transfer of the property to another person, or any consideration payable by the holder of an option to the property owner necessary to keep the option in force.

f. Any tax, fee, charge, assessment, fine, or other amount payable to or imposed by a governmental authority.

g. Any fee, charge, assessment, fine, or other amount payable to a homeowners', condominium, cooperative, mobile home, private residential leasehold community, or property owners' association pursuant to a declaration or covenant authorized in a master deed or bylaws including, but not limited to, fees or charges payable for estoppel letters or certificates issued by the association or its authorized agent.

h. Any fee, charge, assessment, dues, contribution, or other amount imposed by a declaration or covenant encumbering a community, and payable to a nonprofit or charitable organization, for the purpose of supporting cultural, educational, charitable, recreational, environmental, conservation, or other similar activities benefiting the community that is subject to the declaration or covenant.

i. Any fee, charge, assessment, dues, contribution, or other amount pertaining to the purchase or transfer of a club membership relating to real property owned by the member, including, but not limited to, any amount determined by reference to the value, purchase price, or other consideration given for the transfer of the real property.

"Private transfer fee obligation" means a declaration or covenant recorded against the title to real property, or any other contractual agreement or promise, whether or not recorded, that requires or purports to require the payment of a private transfer fee to the declarant or other person specified

in the declaration, obligation or agreement, or to their successors or assigns, upon a subsequent transfer of an interest in the real property.

C.46:3-30 Private transfer fee obligation shall not run with title to real property; exceptions.

3. a. A private transfer fee obligation recorded or entered into in this State on or after the effective date of P.L.2010, c.102 (C.46:3-28 et seq.) shall not run with the title to real property and is not binding on or enforceable at law or in equity against any subsequent owner, purchaser, or mortgagee of any interest in real property as an equitable servitude or otherwise. Any private transfer fee obligation that is recorded or entered into in this State on or after the effective date of P.L.2010, c.102 (C.46:3-28 et seq.) is void and unenforceable.

b. This section shall not apply to a private transfer fee obligation recorded or entered into in this State before the effective date of P.L.2010, c.102 (C.46:3-28 et seq.). This subsection does not mean that a private transfer fee obligation recorded or entered into in this State before the effective date of P.L.2010, c.102 (C.46:3-28 et seq.) is presumed valid and enforceable.

C.46:3-31 Liability for damages.

4. Any person who records or enters into an agreement imposing a private transfer fee obligation in their favor after the effective date of P.L.2010, c.102 (C.46:3-28 et seq.) shall be liable for both any and all damages resulting from the imposition of the private transfer fee obligation on the transfer of an interest in the real property, including, without limitation, the amount of any transfer fee paid by a party to the transfer, and all attorneys fees, expenses and costs incurred by a party to the transfer or mortgagee of the real property to recover any private transfer fee paid, or in connection with an action to quiet title. Where an agent acts on behalf of a principal to record or secure a private transfer fee obligation, liability shall be assessed to the principal, rather than the agent.

C.46:3-32 Disclosure of existence of private transfer fee obligation.

5. Prior to closing on any sale of real property, the seller shall furnish to any purchaser a written statement disclosing the existence of any private transfer fee obligation. This written statement shall include a description of the private transfer fee obligation and include a statement that private transfer fee obligations are subject to prohibitions under P.L.2010, c.102 (C.46:3-28 et seq.).

C.46:3-33 Recording of notice of private transfer fee; requirements.

6. a. The payee designated in a private transfer fee obligation made prior to the effective date of P.L.2010, c.102 (C.46:3-28 et seq.), shall ensure that the notice of private transfer fee, described in subsection b., is recorded, no later than six months following the effective date of P.L.2010, c.102 (C.46:3-28 et seq.), in the county recording office against the real property subject to the private transfer fee obligation.

b. A private transfer fee obligation made prior to the effective date of P.L.2010, c.102 (C.46:3-28 et seq.) shall be imposed and enforceable by recording of a notice of private transfer fee, which shall be a document, in recordable form that meets all of the following requirements:

(1) The title of the document shall be "Notice of Private Transfer Fee Obligation" in at least 14-point boldface type;

(2) The names of all current owners of the real property subject to the transfer fee, and the legal description and assessor's parcel number for the affected real property;

(3) The amount, if the fee is a flat amount, or the percentage of the sales price constituting the cost of the transfer fee, or another basis by which the transfer fee is to be calculated;

(4) If the real property is residential property, actual dollar-cost examples of the transfer fee for a home priced at $250,000, $500,000, and $750,000;

(5) The date or circumstances under which the private transfer fee covenant expires, if any;

(6) The purpose for which the funds from the private transfer fee obligation will be used;

(7) The name of the payee or any assigns, and specific contact information regarding where the funds are to be sent;

(8) The acknowledged signature of a representative of an entity to which a private transfer fee is to be paid; and

(9) The legal description of the real property burdened by the private transfer fee obligation.

c. The payee may file an amendment to the notice of transfer fee containing new contact information, but such amendment must contain the recording information for the notice of transfer fee that the amendment modifies and the legal description of the property burdened by the private transfer fee obligation.

d. If the payee fails to comply fully with subsection a. of this section, the grantor of any real property burdened by the private transfer fee obligation may proceed with the conveyance of any interest in the real property to

any grantee and in so doing shall be deemed to have acted in good faith and shall not be subject to any obligations under the private transfer fee obligation. In such event, the real property thereafter shall be conveyed free and clear of such transfer fee and private transfer fee obligation.

e. Should the payee fail to provide a written statement of the transfer fee payable within 30 days of the date of a written request for the same sent to the address shown in the notice of private transfer fee, then the grantor, on recording of the affidavit required under subsection f., may convey any interest in the real property to any grantee without payment of the transfer fee and shall not be subject to any further obligations under the private transfer fee obligation. In such event the real property shall be conveyed free and clear of the transfer fee and private transfer fee obligation.

f. An affidavit stating the facts enumerated under subsection a. of this section shall be recorded in the office of the county clerk or register of deeds, as the case may be, in the county in which the real property is situated prior to or simultaneously with a conveyance pursuant to subsection d. of this section of real property unburdened by a private transfer fee obligation. An affidavit filed under this subsection shall state that the affiant has actual knowledge of, and is competent to testify to, the facts in the affidavit and shall include the legal description of the real property burdened by the private transfer fee obligation, the name of the person appearing by the record to be the owner of such real property at the time of the signing of such affidavit, a reference (by recording information) to the instrument of record containing the private transfer fee obligation, and an acknowledgment that the affiant is testifying under penalty of perjury.

g. When recorded, an affidavit as described in subsection f. of this section shall constitute prima facie evidence that:

(1) A request for the written statement of the transfer fee payable in order to obtain a release of the fee imposed by the private transfer fee obligation was sent to the address shown in the notification; and

(2) The entity listed on the notice of private transfer fee failed to provide the written statement of the transfer fee payable within 30 days of the date of the notice sent to the address shown in the notification.

7. This act shall take effect immediately.

Approved December 8, 2010.

CHAPTER 103

AN ACT concerning certain law enforcement officers, amending P.L.1991, c.299 and supplementing Title 40A of the New Jersey Statutes and Title 52 of the Revised Statutes.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Section 1 of P.L.1991, c.299 (C.40A:14-180) is amended to read as follows:

C.40A:14-180 Appointment of certain county, municipal, sheriff's law enforcement officers.

1. a. The provisions of any other law to the contrary notwithstanding, the appointing authority of a county or municipality which, pursuant to N.J.S.40A:14-106, in the case of a county, or N.J.S.40A:14-118, in the case of a municipality, has established and maintains a police force or the sheriff of any county may appoint as a member or officer of the county or municipal police department or as a member or officer of the county sheriff's office any person who:

(1) was serving as a law enforcement officer in good standing in any State, county or municipal law enforcement department or agency, or county sheriff's office; and

(2) satisfactorily completed a working test period in a State law enforcement title or in a law enforcement title in a county or municipality which has adopted Title 11A, Civil Service, of the New Jersey Statutes or satisfactorily completed a comparable, documented probationary period in a law enforcement title in a county or municipality which has not adopted Title 11A, Civil Service; and

(3) was, for reasons of economy, terminated as a law enforcement officer within 60 months prior to the appointment.

b. A county, municipality, or sheriff may employ such a person notwithstanding that:

(1) Title 11A, Civil Service, of the New Jersey Statutes is operative in that county or municipality;

(2) the county, municipality, or sheriff's office has available to it an eligible or regular reemployment list of law enforcement officers eligible for such appointments; and

(3) the appointed person is not on any eligible list. A county or municipality which has adopted Title 11A, Civil Service, may not employ such a person if a special reemployment list is in existence for the law enforcement title to be filled.

c. If a county or a sheriff determines to appoint a person pursuant to the provisions of this act, first priority in making such appointments shall be given to residents of the county. A municipality making such an appointment shall give first priority to residents of the municipality and second priority to residents of the county not residing in the municipality.

d. The seniority, seniority-related privileges and rank a law enforcement officer possessed with the employer who terminated the officer's employment for reasons of economy shall not be transferable to a new position when the officer is appointed to a law enforcement position pursuant to the provisions of this section.

The provisions of this section shall not apply to a sheriff's investigator appointed pursuant to section 2 of P.L.1987, c.113 (C.40A:9-117a).

C.40A:14-180.2 Appointment of certain county correctional officers.

2. a. The provisions of any other law to the contrary notwithstanding, the appointing authority of a county correctional facility, be that the governing body of the county pursuant to R.S.30:8-19 or the sheriff pursuant to R.S.30:8-17, may appoint as a county correctional officer any person who:

(1) was serving as a county correctional officer in good standing in any county correctional facility in this State; and

(2) satisfactorily completed a working test period in a county correctional officer title or in a county which has adopted Title 11A, Civil Service, of the New Jersey Statutes or satisfactorily completed a comparable, documented probationary period in a county correctional title in a county which has not adopted Title 11A, Civil Service; and

(3) was, for reasons of economy, terminated as a county correctional officer within 60 months prior to the appointment.

b. The appointing authority of a county correctional facility may employ such a person notwithstanding that:

(1) Title 11A, Civil Service, of the New Jersey Statutes is operative in that county;

(2) the appointing authority has available to it an eligible or regular reemployment list of corrections officers eligible for such appointments; and

(3) the appointed person is not on any eligible list. If the county appointing authority is subject to the provisions of Title 11A, Civil Service, it

may not employ such a person if a special reemployment list is in existence for the county corrections officer title to be filled.

c. If the county appointing authority determines to appoint a person pursuant to the provisions of this act, it shall give first priority in making such appointments to residents of the county.

d. The seniority, seniority-related privileges, and rank a county corrections officer possessed with the employer who terminated the officer's employment for reasons of economy shall not be transferable to a new position when the officer is appointed to a county corrections officer position pursuant to the provisions of this section.

C.52:17B-4.8 Appointment of certain State law enforcement department officers.

3. a. Notwithstanding the provisions of any other law to the contrary, the appointing authority of a State law enforcement department or agency, other than the Division of State Police but including the appointing authority of a State college or university established pursuant to chapter 64 of Title 18A of the New Jersey Statutes or of a public research university, which requires appointees to successfully complete, prior to their appointment, a training course approved by the Police Training Commission may appoint as a member or officer of the agency any person who:

(1) was serving as a law enforcement officer in good standing in any State, county or municipal law enforcement department or agency, or county sheriff's office; and

(2) satisfactorily completed a working test period in a State law enforcement title or in a law enforcement title in a county or municipality which has adopted Title 11A, Civil Service, of the New Jersey Statutes or satisfactorily completed a comparable, documented probationary period in a law enforcement title in a county or municipality which has not adopted Title 11A, Civil Service; and

(3) was, for reasons of economy, terminated as a law enforcement officer within 60 months prior to the appointment.

b. A department or agency may employ such a person notwithstanding that:

(1) the appointment is subject to the provisions of Title 11A, Civil Service, of the New Jersey Statutes;

(2) the department or agency has available to it an eligible or regular reemployment list of law enforcement officers eligible for such appointments; and

(3) the appointed person is not on any eligible list. The department or agency may not employ such a person if a special reemployment list is in existence for the law enforcement title to be filled.

c. The seniority, seniority-related privileges and rank a law enforcement officer possessed with the employer who terminated the officer's employment for reasons of economy shall not be transferable to a new position when the officer is appointed to a law enforcement position pursuant to the provisions of this section.

C.40A:14-180.1 Appointment of certain municipal police officers.

4. a. The provisions of any other law to the contrary notwithstanding, the appointing authority of a municipality which, pursuant to N.J.S.40A:14-118, has established and maintains a police force may reappoint as a member or officer of its municipal police department or force any person who:

(1) did not hold a permanent appointment, but was serving as a probationary officer or as an officer in a field working test period, as prescribed by the Police Training Commission, in the police department or force of that municipality;

(2) was, for reasons of economy, terminated as a law enforcement officer within 60 months prior to the reappointment; and

(3) was, at the time of termination, in good standing.

b. A municipality may reemploy such a person notwithstanding that:

(1) Title 11A, Civil Service, of the New Jersey Statutes is operative in the municipality;

(2) the municipality has available to it an eligible or regular reemployment list of persons eligible for such appointments; and

(3) the appointed person is not on any eligible list. A municipality which has adopted Title 11A, Civil Service, may not reemploy such a person if a special reemployment list is in existence for the law enforcement title to be filled.

c. A law enforcement officer reemployed pursuant to this section shall complete the remainder of any probationary or working test period not completed at the time of his termination for reasons of economy.

5. This act shall take effect on the first day of the third month following enactment, except that section 4 shall take effect immediately.

Approved December 9, 2010.

CHAPTER 104

AN ACT concerning the State's public broadcasting system, supplementing Title 48 of the Revised Statutes, amending and repealing various parts of the statutory law.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

C.48:23-18 Short title.

1. Sections 1 through 9, sections 14 through 15 and sections 22 through 24 of this act shall be known and may be cited as the "New Jersey Public Broadcasting System Transfer Act."

C.48:23-19 Findings, declarations relative to the State's public broadcasting system.

2. The Legislature finds and declares that:

a. In 1968, the Legislature passed and then Governor Richard J. Hughes signed the "New Jersey Public Broadcasting Authority Act of 1968," P.L.1968, c.405 (C.48:23-1 et seq.), establishing the New Jersey Public Broadcasting Authority ("authority"), the current operator of New Jersey Network Public Television and Radio ("NJN"), in response to the inability of commercial and public broadcasters to adequately cover public affairs in the State. Further, in 1990, the Legislature passed and then Governor Thomas H. Kean signed P.L.1990, c.114 (C.48:23-13 et al.), authorizing the establishment of the Foundation for New Jersey Public Broadcasting ("foundation") as NJN's fundraising arm.

b. While this structure has served the State by building a broadcast network that assists in meeting the information and entertainment needs of our citizens, the current fiscal crisis confronting the State, and the inherent difficulties in operating an essentially creative, artistic, cultural, educational, and public affairs entity under the control of a State authority clearly necessitated a thorough re-examination of the State's role in public broadcasting.

c. In light of the aforesaid fiscal, structural, and operational challenges, the Fiscal Year 2011 appropriations law, passed by the Legislature and signed by the Governor on June 29, 2010 (P.L.2010, c.35), significantly reduced State support for public broadcasting services.

d. Because of a concern that the best interests of the citizens could be harmed by any wholesale elimination of public broadcasting, the Legislature created the "Legislative Task Force on Public Broadcasting," which

was charged with evaluating a potential transition of New Jersey public broadcasting assets to a nonprofit entity. The task force concluded that such entity should: (1) continue to provide New Jersey-centric programming; (2) operate Statewide; (3) implement the use of new technology; and (4) provide independent, civic journalism.

e. It is therefore necessary and in the public interest to establish a legal structure within which the transfer, either by sale or lease, of the State's public broadcasting system, or delegation by contract of the responsibility for operating that system, to a nonprofit corporation or other entity eligible to operate a public broadcasting system, in any form, including, but not limited to, a transfer of its assets, including its radio operating licenses, retention of its television operating licenses, or transfer of responsibility for its operations, or an interest in them, may be accomplished in a timely manner that provides maximum benefits for the citizens of the State while, at the same time, minimizing disruption to affected employees and other interested parties.

f. Because of the speculative nature of the value of the television operating license currently held by the authority, it is in the public interest for the authority to retain the television operating licenses.

g. Moreover, while it is important to consider and provide for a potential asset transfer to a nonprofit corporation or similar entity, it is also in the public interest to authorize the State Treasurer to explore alternative paths to such a transfer, including, but not limited to, the outright sale of some or all of the assets of the authority.

C.48:23-20 Transfer of State's public broadcasting system to another entity.

3. a. The New Jersey Public Broadcasting Authority created pursuant to P.L.1968, c.405 (C.48:23-1 et seq.) shall undertake all acts necessary to accomplish the transfer of the State's public broadcasting system to a nonprofit corporation or other entity eligible to operate a public broadcasting system as authorized by P.L.2010, c.104 (C.48:23-18 et al.), including, but not limited to, applying or assisting in applying to the Federal Communications Commission ("FCC") or other governmental entity for any required approval, executing any authorization or authorizations required to implement such transfer, other than the transfer of the television licenses, and seeking any other approval or approvals as may be necessary and convenient to accomplish the transfer.

b. All State departments and agencies, boards, commissions, and authorities, as well as all municipal and county governing bodies, boards, commissions, and authorities, shall cooperate fully with the transfer authorized by P.L.2010, c.104 and facilitate the transfer of assets, the rendering of

approvals, and all other acts necessary or convenient to accomplish the transfer.

c. The State Treasurer is authorized to retain any consultants, experts, brokers, advisors, or other professionals whose services may be necessary in order to effectuate the transaction or transactions contemplated by P.L.2010, c.104, and there are appropriated such sums as may be necessary for such fees and services, as well as any other costs determined to be necessary to effectuate such transaction or transactions, subject to the approval of the Director of the Division of Budget and Accounting in the Department of the Treasury and the Joint Budget Oversight Committee, or its successor.

d. Notwithstanding the provisions of subsection a. of this section, the State Treasurer shall not transfer the television operating licenses currently held by the authority, but may transfer the radio operating licenses currently held by the authority.

C.48:23-21 Preparation of written inventory of assets and liabilities.

4. a. The State Treasurer, in consultation with the authority, shall prepare a complete written inventory identifying the public broadcasting system's assets and liabilities appropriate for transfer or sale pursuant to sections 5 and 6 of P.L.2010, c.104 (C.48:23-22 and C.48:23-23). The inventory shall include a description and recommendations, if any, concerning the most appropriate mechanism or mechanisms through which a transfer of such assets and liabilities to a qualifying nonprofit corporation or one or more sales to another entity or entities pursuant to P.L.2010, c.104 should be accomplished. The inventory shall be completed and copies of the inventory shall be delivered to the Governor, the Speaker of the General Assembly, and the President of the Senate.

b. Any assets or properties owned by the State or any department, agency, board, authority, or commission thereof or any county or municipal board, commission, or authority used in the operation of the public broadcasting system or an interest therein, may be leased or licensed, in lieu of an assignment or transfer of such assets or properties, except as may otherwise be prohibited or limited by the terms of any debt issued to acquire such assets or properties, as determined by the State Treasurer.

C.48:23-22 Authorization for receipt of proposals, negotiation of contract.

5. a. (1) The State Treasurer is authorized to receive one or more proposals to transfer all or any part of the assets of the authority, including, but not limited to, the radio operating licenses, but not including the television operating licenses, to a nonprofit corporation.

(2) Upon selecting a proposal pursuant to this subsection, the State Treasurer shall negotiate a contract to transfer all or any part of the assets of the authority, including, but not limited to, the radio operating licenses, but not including the television operating license, to a selected nonprofit corporation and submit the negotiated contract to the Legislature pursuant to subsection g. of this section.

b. Any transfer or transfers authorized pursuant to subsection a. of this section shall not occur unless the State Treasurer determines, upon application by or on behalf of the nonprofit corporation, if a nonprofit corporation is selected, that:

(1) The nonprofit corporation is an educational and charitable corporation validly existing and in good standing under the "New Jersey Nonprofit Corporation Act," P.L.1983, c.127 (N.J.S.15A:1-1 et seq.) and is incorporated, organized and operated in such a manner as to qualify as a nonprofit corporation described in section 501(c)(3) of the federal Internal Revenue Code, 26 U.S.C. s.501(c)(3) or any successor provision that is exempt from taxation pursuant to section 501(a) of the federal Internal Revenue Code, 26 U.S.C. s.501(a) or any successor provision;

(2) The nonprofit corporation's certificate of incorporation and by-laws authorize the receipt of the FCC operating licenses currently assigned to the authority and the ownership of the assets and liabilities of the authority, and provide that the purposes of the nonprofit corporation include the ownership, maintenance, and operation of a public broadcasting system; and

(3) Upon the assignment of any radio operating licenses and the transfer of assets, the nonprofit corporation shall provide public broadcasting services and operate a public broadcasting system consistent with FCC license requirements.

c. Any assets and liabilities, including receivables, may be assigned, transferred, or conveyed to the nonprofit corporation upon the Legislature's approval pursuant to subsection g. of this section and may become vested in the nonprofit corporation, any of which assignments, transfers, or conveyances may also be evidenced by such instruments of assignment, transfer, or conveyance as the Legislature may approve pursuant to subsection g. of this section, and all liabilities listed in a schedule of assets and liabilities, as well as all outstanding obligations and commitments lawfully undertaken or contracted for by the authority in respect of the public broadcasting system, may be assumed and performed by the nonprofit corporation through the execution, delivery, and performance of such instruments of assumption as the State Treasurer shall prescribe, in each case subject to action by the State Treasurer and the Legislature, pursuant to subsection g. of this section.

d. The State Treasurer shall take such other actions, and may require the nonprofit corporation to take such other actions, as the State Treasurer deems to be necessary to implement the provisions of P.L.2010, c.104 (C.48:23-18 et al.).

e. The State Treasurer may assign, transfer, or convey to the nonprofit corporation from time to time such additional public broadcasting system assets, other than the television operating licenses, as the State Treasurer deems appropriate to further the purposes of P.L.2010, c.104, subject to the approval of the Legislature pursuant to subsection g. of this section.

f. Any negotiations to transfer all or any part of the assets of the authority, including, but not limited to, the radio operating licenses, but not including the television operating licenses, to a nonprofit corporation; or to delegate by contract responsibility for conducting the operations of the public broadcasting system to a nonprofit corporation involving the State Treasurer shall be subject to the provisions of P.L.1963, c.73 (C.47:1A-1 et seq.) and all of its exemptions, commonly known as the open public records act.

g. (1) The State Treasurer shall make the submission required by subsection a. of this section, to the Legislature to the President of the Senate and the Speaker of the General Assembly on a day when both houses are meeting. The President and the Speaker shall cause the date of submission to be entered upon the Senate Journal and the Minutes of the General Assembly, respectively.

(2) Unless the contract as described in the submission is disapproved by adoption of a concurrent resolution to this effect by the affirmative vote of a majority of the authorized membership of both houses within the prescribed time period prescribed in this subsection, the contract shall be deemed approved. The President and the Speaker shall cause a concurrent resolution of disapproval of the contract to be placed before the members of the respective houses for a recorded vote within the time period. The time period shall commence on the day of submission and expire on the fifteenth day after submission or for a house not meeting on the fifteenth day, on the next meeting day of that house.

h. Subject to the provisions of P.L.2010, c.104 and any federal law to the contrary, as an alternative to a transfer or transfers as authorized by this section, the Treasurer is authorized to solicit and receive one or more proposals to sell all or any part of the assets of the authority, including, but not limited to, the radio operating licenses, but not including the television operating licenses, to a for-profit corporation or other entity, subject to such terms, conditions, limitations, rights of reversion and first refusal, provi-

sions for liquidated damages and other contractual penalty provisions, and such other provisions as the Treasurer shall determine to be in the public interest; subject to the approval of the Legislature pursuant to subsection g. of this section.

C.48:23-23 Authorization to delegate by contract responsibility to another entity.

6. a. (1) The State Treasurer is authorized to receive one or more proposals to delegate by contract responsibility for conducting the operations of the public broadcasting system to a nonprofit corporation or other entity.

(2) Upon selecting a proposal pursuant to this subsection, the State Treasurer shall negotiate a contract to delegate by contract responsibility for conducting the operations of the public broadcasting system and submit the negotiated contract to the Legislature pursuant to subsection g. of this section.

b. Any transfer or transfers authorized pursuant to subsection a. of this section shall not occur unless the State Treasurer determines, upon application by or on behalf of a nonprofit corporation, if a nonprofit corporation is selected, that:

(1) The nonprofit corporation is an educational and charitable corporation validly existing and in good standing under the "New Jersey Nonprofit Corporation Act," P.L.1983, c.127 (N.J.S.15A:1-1 et seq.) and is incorporated, organized and operated in such a manner as to qualify as a nonprofit corporation described in section 501(c)(3) of the federal Internal Revenue Code, 26 U.S.C. s.501(c)(3) or any successor provision that is exempt from taxation pursuant to section 501(a) of the federal Internal Revenue Code, 26 U.S.C. s.501(a) or any successor provision;

(2) The nonprofit corporation's certificate of incorporation and by-laws authorize the receipt of the FCC operating licenses currently assigned to the authority and the ownership of the assets and liabilities of the authority, and provide that the purposes of the nonprofit corporation include the ownership, maintenance, and operation of a public broadcasting system; and

(3) Upon the assignment of any operating licenses and the transfer of assets, the nonprofit corporation shall provide public broadcasting services and operate a public broadcasting system consistent with FCC license requirements.

c. Any assets and liabilities, including receivables, may be assigned, transferred, or conveyed to the nonprofit corporation or other entity upon the Legislature's approval pursuant to subsection g. of this section and shall become vested in the nonprofit corporation or other entity, any of which assignments, transfers or conveyances may also be evidenced by such in-

struments of assignment, transfer, or conveyance as the Legislature may approve pursuant to subsection g. of this section, and all liabilities listed in a schedule of assets and liabilities, as well as all outstanding obligations and commitments lawfully undertaken or contracted for by the authority in respect of the public broadcasting system, may be assumed and performed by the nonprofit corporation or other entity through the execution, delivery, and performance of such instruments of assumption as the State Treasurer shall prescribe, in each case subject to action by the State Treasurer and the Legislature, pursuant to subsection g. of this section.

d. The State Treasurer shall take such other actions, and may require the nonprofit corporation or other entity to take such other actions, as the State Treasurer deems to be necessary to implement the provisions of P.L.2010, c.104 (C.48:23-18 et al.).

e. The State Treasurer may assign, transfer, or convey to the nonprofit corporation or other entity from time to time such additional public broadcasting system assets, other than the television operating licenses, as the State Treasurer deems appropriate to further the purposes of P.L.2010, c.104, subject to the approval of the Legislature pursuant to subsection g. of this section.

f. Any negotiations to delegate by contract responsibility for conducting the operations of the public broadcasting system involving the State Treasurer shall be subject to the provisions of P.L.1963, c.73 (C.47:1A-1 et seq.) and all of its exemptions, commonly known as the open public records act.

g. (1) The State Treasurer shall make the submission required by subsection a. of this section, to the Legislature to the President of the Senate and the Speaker of the General Assembly on a day when both houses are meeting. The President and the Speaker shall cause the date of submission to be entered upon the Senate Journal and the Minutes of the General Assembly, respectively.

(2) Unless the project as described in the submission is disapproved by adoption of a concurrent resolution to this effect by the affirmative vote of a majority of the authorized membership of both houses within the time period prescribed in this subsection, the contract shall be deemed approved. The President and the Speaker shall cause a concurrent resolution of disapproval of the contract to be placed before the members of the respective houses for a recorded vote within the time period. The time period shall commence on the day of submission and expire on the fifteenth day after submission or for a house not meeting on the fifteenth day, on the next meeting day of that house.

C.48:23-24 Receipt of records, liabilities, obligations, commitments of authority to effectuate transfer.

7. The State Treasurer may receive, continue, or assume any records, liabilities, obligations or commitments of the authority or by written order or other appropriate method make an assignment or transfer thereof to any State department, agency, or instrumentality in order to effectuate the transfer of the State's public broadcasting system to a nonprofit corporation or other entity eligible to operate a public broadcasting system authorized by P.L.2010, c.104 (C.48:23-18 et al.). All State departments, agencies, and instrumentalities shall take all necessary measures to effectuate any action taken by the State Treasurer pursuant to P.L.2010, c.104 and shall assume and perform any liabilities, obligations, and commitments transferred or assigned to them.

C.48:23-25 Authority to enter into contracts, transfer assets.

8. Notwithstanding the provisions of any other law, rule, or regulation to the contrary, contracts may be entered into and assets may be transferred, leased, subleased, licensed, or sublicensed, or authorized to be transferred, leased, subleased, licensed, or sublicensed pursuant to P.L.2010, c.104 (C.48:23-18 et al.) without the approval of the State House Commission, established pursuant to R.S.52:20-1, the State Leasing and Space Utilization Committee, established pursuant to section 4 of P.L.1992, c.130 (C.52:18A-191.4), or the Office of Leasing Operations in the General Services Administration of the Department of the Treasury, established pursuant to section 3 of P.L.1992, c.130 (C.52:18A-191.3), or of any other person or agency, provided that the contract, transfer, lease, sublease, license, or sublicense has been approved in writing by the State Treasurer.

C.48:23-26 Disposition of transferred assets.

9. Public broadcasting system assets transferred, or authorized to be transferred, by contract or otherwise, pursuant to P.L.2010, c.104 (C.48:23-18 et al.), may be leased, subleased, licensed, sublicensed, sold, devised, donated, or otherwise disposed of for a nominal or other consideration, in order to effectuate the transfer of the State's public broadcasting system to a nonprofit corporation or other entity eligible to operate a public broadcasting system required by P.L.2010, c.104.

10. Section 2 of P.L.1968, c.405 (C.48:23-2) is amended to read as follows:

C.48:23-2 Definitions.

2. For the purposes of this act, unless otherwise indicated by the context:

"Authority" means the New Jersey Public Broadcasting Authority.

"Board" means the board of the New Jersey Public Broadcasting Authority.

"Public broadcasting" includes all aspects of noncommercial radio and television, open and closed circuit, including the production and dissemination of public and community affairs, educational, cultural, and instructional information to the public at large within the State. For the purposes of P.L.1968, c.405 (C.48:23-1 et seq.), public broadcasting does not include radio and television transmissions for internal communications, as presently used by public and private agencies in fields such as law enforcement, safety, transportation, traffic control, civil defense, and the like, except that this limitation shall not apply when an emergency condition exists and notification of the emergency condition is received by the authority pursuant to section 3 of P.L.1989, c.133 (C.53:1-21.6) nor shall this limitation apply with regard to preparations or planning for such an emergency condition.

"Public broadcasting telecommunications" includes all public broadcasting services relating to public broadcasting including intercommunications, datacasting, closed circuit Instructional Television Fixed Service (ITFS), and other services requiring Federal Communications Commission spectrum allocations for transmission of electrical impulses that specifically and integrally relate to New Jersey public broadcasting. Facilities typical for application of these services would encompass micro-wave interconnection, aural and video TV transmission, multiplexing, laser beam utilization, satellite interconnection systems, and other appropriate technological devices.

11. Section 3 of P.L.1968, c.405 (C.48:23-3) is amended to read as follows:

C.48:23-3 New Jersey Public Broadcasting Authority; establishment.

3. There is hereby established, pursuant to P.L.1968, c.405 (C.48:23-1 et seq.), in the Executive Branch of the State Government the New Jersey Public Broadcasting Authority. For the purpose of complying with the provisions of Article V, Section IV, paragraph 1 of the New Jersey Constitution, the authority is hereby allocated within the Department of the Treasury, but notwithstanding such allocation, the authority shall be independent of any supervision or control by the department or by any agency or officer thereof.

12. Section 24 of P.L.1998, c.44 (C.52:27C-84) is amended to read as follows:

C.52:27C-84 Status of New Jersey Public Broadcasting Authority.

24. a. The New Jersey Public Broadcasting Authority, established pursuant to P.L.1968, c.405 (C.48:23-1 et seq.), is transferred in but not of the Department of the Treasury, but notwithstanding this transfer, the New Jersey Public Broadcasting Authority shall be independent of any supervision and control by the department or by any board or officer thereof. The New Jersey Public Broadcasting Authority shall submit its budget request directly to the Division of Budget and Accounting in the Department of the Treasury.

b. Whenever, in any law, rule, regulation, order, contract, document, judicial or administrative proceeding, or otherwise, reference is made to the New Jersey Public Broadcasting Authority, the same shall mean and refer to the New Jersey Public Broadcasting Authority in but not of the Department of the Treasury.

c. This transfer shall be subject to the provisions of the "State Agency Transfer Act," P.L.1971, c.375 (C.52:14D-1 et seq.).

d. The New Jersey Department of the Treasury may render administrative assistance including, but not limited to, personnel and fiscal assistance, upon request of the New Jersey Public Broadcasting Authority. The cost and expense of any services rendered may be paid by the New Jersey Public Broadcasting Authority.

e. Regulations adopted by the New Jersey Public Broadcasting Authority shall continue with full force and effect until amended or repealed pursuant to law.

13. Section 4 of P.L.1968, c.405 (C.48:23-4) is amended to read as follows:

C.48:23-4 Board; appointment; terms; compensation; meetings; organization; secretary; seal.

4. a. (Deleted by amendment, P.L.2010, c.104).

b. The authority shall consist of a board which shall be composed of five members: (1) three members appointed by the Governor who shall be citizens of the State, two of whom shall be public members; (2) one member appointed by the President of the Senate; and (3) one member appointed by the Speaker of the General Assembly.

c. The term of office of appointed members, except for the first appointed members made under P.L.2010, c.104, shall be for five years. Each

member shall serve until the member's successor shall have been appointed and qualified and vacancies shall be filled in the same manner as the original appointments for the remainder of the unexpired term.

d. The members of the board shall receive no compensation for their services, but may be reimbursed for their actual expenses in performing their duties.

e. The board shall hold public meetings at such places within the State as it shall designate at least once quarterly and at such other times as in its judgment may be necessary.

f. The board shall organize annually by the election of a chair and vice-chair, and such other officers as the board shall determine. Officers shall serve until their successors are elected and qualified. Vacancies in such offices shall be filled in the same manner for the unexpired term only.

g. The chair shall appoint a secretary of the board who shall have custody of its official seal. The chair may designate an employee of the authority to perform such duties of the secretary and such other services as the board shall designate.

C.48:23-27 Terms of office terminated.

14. The terms of office of all members of the New Jersey Public Broadcasting Commission in office prior to the effective date of P.L.2010, c.104 (C.48:23-18 et al.) shall terminate.

C.48:23-28 Terms of first members appointed.

15. Of the first members of the board of the New Jersey Public Broadcasting Authority appointed after the effective date of P.L.2010, c.104 (C.48:23-18 et al.), one public member appointed by the Governor shall serve for a term of one year, the member appointed by the Speaker of the General Assembly shall serve for a term of two years, one public member appointed by the Governor shall serve for a term of three years, and the member appointed by the President of the Senate shall serve for a term of four years.

16. Section 7 of P.L.1968, c.405 (C.48:23-7) is amended to read as follows:

C.48:23-7 Powers of authority.

7. The authority shall have the power to:

a. Adopt and from time to time amend and repeal suitable by-laws for the management of the authority's affairs.

b. Adopt and use the official seal and alter the same at the pleasure of the board.

c. Maintain an office at such place or places within the State as the board may designate within the limits of available appropriations therefor.

d. (Deleted by amendment, P.L.2010, c.104).

e. Apply for, receive, and hold such authorizations and licenses and assignments and reassignments of channels from the Federal Communications Commission (FCC) as may be necessary to conduct its operations and prepare, and file and prosecute before the FCC all applications, reports, or other documents or requests for authorization of any type necessary or appropriate to achieve the authorized purposes of the authority.

f. Comply with the minimum requirements of the FCC necessary for the authority to hold FCC broadcast licenses, including requirements concerning the minimum number of authority employees and broadcast transmission facilities.

g. (Deleted by amendment, P.L.2010, c.104).

h. (Deleted by amendment, P.L.2010, c.104).

i. (Deleted by amendment, P.L.2010, c.104).

j. (Deleted by amendment, P.L.2010, c.104).

k. (Deleted by amendment, P.L.2010, c.104).

l. (Deleted by amendment, P.L.2010, c.104).

m. (Deleted by amendment, P.L.2010, c.104).

n. (Deleted by amendment, P.L.2010, c.104).

o. (Deleted by amendment, P.L.2010, c.104).

p. (Deleted by amendment, P.L.2010, c.104).

q. (Deleted by amendment, P.L.2010, c.104).

r. (Deleted by amendment, P.L.2010, c.104).

s. Make reasonable rules and regulations to carry out the provisions of P.L.1968, c.405 (C.48:23-1 et seq.) and P.L.2010, c.104 (C.48:23-18 et al.).

17. Section 3 of P.L.1977, c.44 (C.34:1B-24) is amended to read as follows:

C.34:1B-24 Motion Picture and Television Development Commission.

3. a. There is hereby established in but not of the Division of Business Assistance, Marketing, and International Trade in the New Jersey Economic Development Authority a Motion Picture and Television Development Commission.

b. The commission shall consist of eight public members, no more than four of whom shall be members of the same political party, who shall

be appointed by the Governor with the advice and consent of the Senate, and the Chairman of the New Jersey State Council on the Arts, and the Commissioner of Labor and Workforce Development or their designees serving in an ex officio capacity. The Governor shall appoint from the ten members a chairman who shall serve in that office at the pleasure of the Governor.

c. The public members of the commission shall be appointed initially for the following terms: three members for a term of two years; three members for a term of three years; and two members for a term of four years. The initial members shall serve from the date of the original appointment for the aforementioned specified terms and until their respective successors shall be duly appointed and qualified. The term of each such appointed member shall be designated by the Governor at the time of his appointment. The successors to the initially appointed members shall each be appointed for a term of four years, except that any person appointed to fill a vacancy shall serve only for the unexpired term.

d. The members of the commission shall serve without compensation, but the commission may reimburse its members for necessary expenses incurred in the discharge of their duties.

18. Section 4 of P.L.1972, c.133 (C.52:14E-4) is amended to read as follows:

C.52:14E-4 Governor's Advisory Council for Emergency Services.

4. There is hereby created a Governor's Advisory Council for Emergency Services, which shall consist of the Attorney General, who shall be the presiding officer; the Adjutant General of Military and Veterans' Affairs, the Commissioner of Community Affairs, the Commissioner of Environmental Protection, the Commissioner of Transportation, and the President of the Board of Public Utilities or their designees. The members of the council shall serve without pay in connection with all such duties as are prescribed in P.L.1972, c.133 (C.52:14E-1 et seq.).

19. Section 8 of P.L.1972, c.133 (C.52:14E-8) is amended to read as follows:

C.52:14E-8 Council's powers, duties.

8. The council shall be authorized to perform the following functions and exercise the following powers:

a. Review, evaluate and recommend to the Legislature any necessary changes in any existing compact between this State and the federal government or between this State and any other state created for the purposes set forth in this act or develop such compacts where they do not exist.

b. Review, evaluate and periodically recommend changes in existing emergency master plans.

c. Encourage and coordinate comprehensive services available through private organizations and intercommunity cooperation.

d. Authorize expenditures from the fund upon approval of the Governor to provide emergency relief deemed appropriate by the council or to reimburse municipalities or counties for damages or excessive costs sustained as a result of an emergency.

e. Utilize the manpower, facilities and materials of the various State departments for the purposes of P.L.1972, c.133 (C.52:14E-1 et seq.).

20. Section 2 of P.L.1990, c.114 (C.48:23-14) is amended to read as follows:

C.48:23-14 Board of directors.

2. The Foundation for New Jersey Public Broadcasting shall be governed by a board of directors. The number of directors and their terms and manner of selection shall be determined upon the incorporation of the foundation. No employee of the New Jersey Public Broadcasting Authority shall serve as a member of the board of directors. No member of the board of directors shall engage in any business transaction or professional activity for profit with the New Jersey Public Broadcasting Authority.

21. Section 5 of P.L.1990, c.114 (C.48:23-17) is amended to read as follows:

C.48:23-17 Use of funds.

5. All funds received by the Foundation for New Jersey Public Broadcasting, other than those necessary to pay for the expenses of the foundation, shall be used exclusively for the support and promotion of public broadcasting in New Jersey.

C.48:23-29 "Trust Fund for the Support of Public Broadcasting."

22. a. There is hereby created in the Department of the Treasury the "Trust Fund for the Support of Public Broadcasting", a restricted, nonlapsing, revolving fund to be managed and invested by the State Treasurer. All

moneys appropriated to the fund, all interest accumulated on balances in the fund, and all cash received for the fund from any other source are dedicated solely for the support of a public broadcasting system serving New Jersey as provided for in P.L.2010, c.104. All moneys deposited in the fund are hereby appropriated in such amounts determined by the State Treasurer to the entity or entities selected to operate a public broadcasting system pursuant to P.L.2010, c.104 for that purpose and shall within 10 days of deposit in the fund be expended by the State Treasurer to that entity, or, if moneys are deposited prior to such entity being designated, as soon as may be practicable after approval of that entity or entities pursuant to sections 5 and 6 of P.L.2010, c.104 (C.48:23-22 and C.48:23-23).

b. Notwithstanding any provision of law to the contrary, except as may be otherwise prohibited or limited by the terms of any debt issued to acquire such assets or property, all monies received by the State from the sale, lease or assignment of any assets or property of the authority which comprise the public broadcasting system shall be deposited in or credited to this fund.

C.48:23-30 Transfer approval.

23. If the Legislature's approval of the sale or transfer, as appropriate, of any radio or the television operating license is found to violate any federal law, rule or regulation, the transfer of the respective operating license shall not occur unless the authority, by a majority vote, approves such a sale or transfer.

C.48:23-31 Liberal construction, severability.

24. This act shall be liberally construed to effectuate its purposes. All acts and parts of acts inconsistent with any of the provisions of this act are, to the extent of such inconsistencies, superseded and shall be deemed inoperative. If any provision of this act, or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the sections that can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

Repealer.

25. The following sections are repealed:
Section 14 of P.L.1974, c.26 (C.19:44A-39);
Sections 5 and 6 of P.L.1968, c.405 (C.48:23-5 and C.48:23-6);
Sections 1 and 2 of P.L.1989, c.133 (C.48:23-11 and C.48:23-12);

Section 4 of P.L.1989, c.133 (C.52:14E-8.1);
Section 10 of P.L.1987, c.365 (C.52:27H-20.3); and
Section 3 of P.L.1989, c.133 (C.53:1-21.6).

26. This act shall take effect immediately, and section 16 shall take effect upon the transfer established pursuant to sections 5 and 6 of this act.

Approved December 17, 2010.

CHAPTER 105

AN ACT concerning police and fire arbitration and amending and supplementing P.L.1977, c.85.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Section 3 of P.L.1977, c.85 (C.34:13A-16) is amended to read as follows:

C.34:13A-16 Negotiations between public fire, police department and exclusive representative; unfair practice charge; mediation; arbitration.

3. a. (1) Negotiations between a public fire or police department and an exclusive representative concerning the terms and conditions of employment shall begin at least 120 days prior to the day on which their collective negotiation agreement is to expire. The parties shall meet at least three times during that 120-day period. The first of those three meetings shall take place no later than the 90th day prior to the day on which their collective negotiation agreement is to expire. By mutual consent, the parties may agree to extend the period during which the second and third meetings are required to take place beyond the day on which their collective negotiation agreement is to expire. A violation of this paragraph shall constitute an unfair practice and the violator shall be subject to the penalties prescribed by the commission pursuant to rule and regulation.

Prior to the expiration of their collective negotiation agreement, either party may file an unfair practice charge with the commission alleging that the other party is refusing to negotiate in good faith. The charge shall be filed in the manner, form and time specified by the commission in rule and regulation. If the charge is sustained, the commission shall order that the

respondent be assessed for all legal and administrative costs associated with the filing and resolution of the charge; if the charge is dismissed, the commission shall order that the charging party be assessed for all legal and administrative costs associated with the filing and resolution of the charge. The filing and resolution of the unfair practice charge shall not delay or impair the impasse resolution process.

(2) Whenever those negotiations concerning the terms and conditions of employment shall reach an impasse, the commission, through the Division of Public Employment Relations shall, upon the request of either party, or upon its own motion take such steps, including the assignment of a mediator, as it may deem expedient to effect a voluntary resolution of the impasse.

b. (1) In the event of a failure to resolve the impasse by mediation, the Division of Public Employment Relations, at the request of either party, shall invoke factfinding with recommendation for settlement of all issues in dispute unless the parties reach a voluntary settlement prior to the issuance of the factfinder's report and recommended terms of settlement. Factfindings shall be limited to those issues that are within the required scope of negotiations unless the parties to the factfinding agree to factfinding on permissive subjects of negotiation.

(2) Notwithstanding the provisions of paragraph (2) of subsection a. of this section or paragraph (1) of this subsection, either party may petition the commission for arbitration on or after the date on which their collective negotiation agreement expires. The petition shall be filed in a manner and form prescribed by the commission. The party filing the petition shall notify the other party of its action. The notice shall be given in a manner and form prescribed by the commission.

Any mediation or factfinding invoked pursuant to paragraph (2) of subsection a. of this section or paragraph (1) of subsection b. of this section shall terminate immediately upon the filing of a petition for arbitration.

c. (Deleted by amendment, P.L.2010, c.105)

d. The resolution of issues in dispute shall be binding arbitration under which the award on the unsettled issues is determined by conventional arbitration. The arbitrator shall determine whether the total net annual economic changes for each year of the agreement are reasonable under the nine statutory criteria set forth in subsection g. of this section and shall adhere to the limitations set forth in section 2 of P.L.2010, c.105 (C.34:13A-16.7). The non-petitioning party, within five days of receipt of the petition, shall separately notify the commission in writing of all issues in dispute. The

filing of the written response shall not delay, in any manner, the interest arbitration process.

e. (1) The commission shall take measures to assure the impartial selection of an arbitrator or arbitrators from its special panel of arbitrators. On the first business day following receipt of an interest arbitration petition, the commission shall, independent of and without any participation by either of the parties, randomly select an arbitrator from its special panel of arbitrators. The selection by the commission shall be final and shall not be subject to review or appeal.

(2) Applicants for initial appointment to the commission's special panel of arbitrators shall be chosen based on their professional qualifications, knowledge, and experience, in accordance with the criteria and rules adopted by the commission. Such rules shall include relevant knowledge of local government operations and budgeting. Appointment to the commission's special panel of arbitrators shall be for a three-year term, with reappointment contingent upon a screening process similar to that used for determining initial appointments. Arbitrators currently serving on the panel shall demonstrate to the commission their professional qualification, knowledge and experience, in accordance with the criteria and rules adopted by the commission, within one year of the effective date of this act. Any arbitrator who does not satisfactorily demonstrate such to the commission within the specified time shall be disqualified.

(3) Arbitrators serving on the commission's special panel shall be guided by and subject to the objectives and principles set forth in the "Code of Professional Responsibility for Arbitrators of Labor-Management Disputers" of the National Academy of Arbitrators, the American Arbitration Association, and the Federal Mediation and Conciliation Service.

(4) Arbitrators shall be required to complete annual training offered by the State Ethics Commission. Any arbitrator failing to satisfactorily complete the annual training shall be immediately removed from the special panel.

The commission may suspend, remove, or otherwise discipline an arbitrator for a violation of P.L.1977, c.85 (C.34:13A-14 et seq.), section 4 of P.L.1995, c.425 (C.34:13A-16.1) or for good cause. An arbitrator who fails to render an award within the time requirements set forth in this section shall be fined $1,000 for each day that the award is late.

f. (1) At a time prescribed by the commission, the parties shall submit to the arbitrator their final offers on each economic and non-economic issue in dispute. The offers submitted pursuant to this section shall be used by the arbitrator for the purposes of determining an award pursuant to subsection d. of this section.

(2) In the event of a dispute, the commission shall have the power to decide which issues are economic issues. Economic issues include those items which have a direct relation to employee income including wages, salaries, hours in relation to earnings, and other forms of compensation such as paid vacation, paid holidays, health and medical insurance, and other economic benefits to employees.

(3) Throughout formal arbitration proceedings the chosen arbitrator may mediate or assist the parties in reaching a mutually agreeable settlement.

All parties to arbitration shall present, at the formal hearing before the issuance of the award, written estimates of the financial impact of their last offer on the taxpayers of the local unit to the arbitrator with the submission of their last offer.

(4) Arbitration shall be limited to those subjects that are within the required scope of collective negotiations, except that the parties may agree to submit to arbitration one or more permissive subjects of negotiation.

(5) The decision of an arbitrator or panel of arbitrators shall include an opinion and an award, and shall be rendered within 45 days of the commission's assignment of that arbitrator.

Each arbitrator's decision shall be accompanied by a written report explaining how each of the statutory criteria played into the arbitrator's determination of the final award. The report shall certify that the arbitrator took the statutory limitations imposed on the local levy cap into account in making the award.

Any arbitrator violating the provisions of this paragraph may be subject to the commission's powers under paragraph (3) of subsection e. of this section. The decision shall be final and binding upon the parties and shall be irreversible, except:

(a) Within seven days of receiving an award, an aggrieved party may file notice of an appeal of an award to the commission on the grounds that the arbitrator failed to apply the criteria specified in subsection g. of this section or violated the standards set forth in N.J.S.2A:24-8 or N.J.S.2A:24-9. The appeal shall be filed in a form and manner prescribed by the commission. In deciding an appeal, the commission, pursuant to rule and regulation and upon petition, may afford the parties the opportunity to present oral arguments. The commission may affirm, modify, correct or vacate the award or may, at its discretion, remand the award to the same arbitrator or to another arbitrator, selected by lot, for reconsideration. The commission's decision shall be rendered no later than 30 days after the filing of the appeal with the commission.

Arbitration appeal decisions shall be accompanied by a written report explaining how each of the statutory criteria played into their determination of the final award. The report shall certify that in deciding the appeal, the commission took the local levy cap into account in making the award.

An aggrieved party may appeal a decision of the commission to the Appellate Division of the Superior Court.

(b) An arbitrator's award shall be implemented immediately.

(6) The parties shall share equally the costs of arbitration subject to a fee schedule approved by the commission. The fee schedule shall provide that the cost of services provided by the arbitrator shall not exceed $1,000 per day. The total cost of services of an arbitrator shall not exceed $7,500. If the parties cancel an arbitration proceeding without good cause, the arbitrator may impose a fee of not more than $500. The parties shall share equally in paying that fee if the request to cancel or adjourn is a joint request. Otherwise, the party causing such cancellation shall be responsible for payment of the entire fee.

g. The arbitrator shall decide the dispute based on a reasonable determination of the issues, giving due weight to those factors listed below that are judged relevant for the resolution of the specific dispute. In the award, the arbitrator or panel of arbitrators shall indicate which of the factors are deemed relevant, satisfactorily explain why the others are not relevant, and provide an analysis of the evidence on each relevant factor; provided, however, that in every interest arbitration proceeding, the parties shall introduce evidence regarding the factor set forth in paragraph (6) of this subsection and the arbitrator shall analyze and consider the factors set forth in paragraph (6) of this subsection in any award:

(1) The interests and welfare of the public. Among the items the arbitrator or panel of arbitrators shall assess when considering this factor are the limitations imposed upon the employer by P.L.1976, c.68 (C.40A:4-45.1 et seq.).

(2) Comparison of the wages, salaries, hours, and conditions of employment of the employees involved in the arbitration proceedings with the wages, hours, and conditions of employment of other employees performing the same or similar services and with other employees generally:

(a) In private employment in general; provided, however, each party shall have the right to submit additional evidence for the arbitrator's consideration.

(b) In public employment in general; provided, however, each party shall have the right to submit additional evidence for the arbitrator's consideration.

(c) In public employment in the same or similar comparable jurisdictions, as determined in accordance with section 5 of P.L.1995, c.425 (C.34:13A-16.2); provided, however, that each party shall have the right to submit additional evidence concerning the comparability of jurisdictions for the arbitrator's consideration.

(3) The overall compensation presently received by the employees, inclusive of direct wages, salary, vacations, holidays, excused leaves, insurance and pensions, medical and hospitalization benefits, and all other economic benefits received.

(4) Stipulations of the parties.

(5) The lawful authority of the employer. Among the items the arbitrator or panel of arbitrators shall assess when considering this factor are the limitations imposed upon the employer by P.L.1976, c.68 (C.40A:4-45.1 et seq.).

(6) The financial impact on the governing unit, its residents, the limitations imposed upon the local unit's property tax levy pursuant to section 10 of P.L.2007, c.62 (C.40A:4-45.45), and taxpayers. When considering this factor in a dispute in which the public employer is a county or a municipality, the arbitrator or panel of arbitrators shall take into account, to the extent that evidence is introduced, how the award will affect the municipal or county purposes element, as the case may be, of the local property tax; a comparison of the percentage of the municipal purposes element or, in the case of a county, the county purposes element, required to fund the employees' contract in the preceding local budget year with that required under the award for the current local budget year; the impact of the award for each income sector of the property taxpayers of the local unit; the impact of the award on the ability of the governing body to (a) maintain existing local programs and services, (b) expand existing local programs and services for which public moneys have been designated by the governing body in a proposed local budget, or (c) initiate any new programs and services for which public moneys have been designated by the governing body in a proposed local budget.

(7) The cost of living.

(8) The continuity and stability of employment including seniority rights and such other factors not confined to the foregoing which are ordinarily or traditionally considered in the determination of wages, hours, and conditions of employment through collective negotiations and collective bargaining between the parties in the public service and in private employment.

(9) Statutory restrictions imposed on the employer. Among the items the arbitrator or panel of arbitrators shall assess when considering this fac-

tor are the limitations imposed upon the employer by section 10 of P.L.2007, c.62 (C.40A:4-45.45).

h. A mediator, factfinder, or arbitrator while functioning in a mediatory capacity shall not be required to disclose any files, records, reports, documents, or other papers classified as confidential received or prepared by him or to testify with regard to mediation, conducted by him under this act on behalf of any party to any cause pending in any type of proceeding under this act. Nothing contained herein shall exempt such an individual from disclosing information relating to the commission of a crime.

C.34:13A-16.7 Definitions relative to police and fire arbitration; limitation on awards.

2. a. As used in this section:

"Base salary" means the salary provided pursuant to a salary guide or table and any amount provided pursuant to a salary increment, including any amount provided for longevity or length of service. It also shall include any other item agreed to by the parties, or any other item that was included in the base salary as understood by the parties in the prior contract. Base salary shall not include non-salary economic issues, pension and health and medical insurance costs.

"Non-salary economic issues" means any economic issue that is not included in the definition of base salary.

b. An arbitrator shall not render any award pursuant to section 3 of P.L.1977, c.85 (C.34:13A-16) which, on an annual basis, increases base salary items by more than 2.0 percent of the aggregate amount expended by the public employer on base salary items for the members of the affected employee organization in the twelve months immediately preceding the expiration of the collective negotiation agreement subject to arbitration; provided, however, the parties may agree, or the arbitrator may decide, to distribute the aggregate monetary value of the award over the term of the collective negotiation agreement in unequal annual percentages. An award of an arbitrator shall not include base salary items and non-salary economic issues which were not included in the prior collective negotiations agreement.

C.34:13A-16.8 Police and Fire Public Interest Arbitration Task Force.

3. a. There is established a task force, to be known as the Police and Fire Public Interest Arbitration Impact Task Force.

b. The task force shall be comprised of eight members as follows:

(1) four to be appointed by the Governor;

(2) two to be appointed by the Senate President; and

(3) two to be appointed by the Speaker of the General Assembly.

c. All appointments shall be made within 30 days of the effective date of P.L.2010, c.105 (C.34:13A-16.7 et al.). Vacancies in the membership shall be filled in the same manner as the original appointments. The members of the task force shall serve without compensation but may be reimbursed, within the limits of funds made available to the task force, for necessary travel expenses incurred in the performance of their duties.

d. (1) The task force shall organize as soon as is practicable upon the appointment of a majority of its members and shall select a chairperson from among the appointees of the Governor and a vice chairperson from among the appointees of the Legislature. The Chair of the Public Employment Relations Commission shall serve as non-voting executive director of the task force.

(2) The task force shall meet within 60 days of the effective date of P.L.2010, c.105 (C.34:13A-16.7 et al.) and shall meet thereafter at the call of its chair. In furtherance of its evaluation, the task force may hold public meetings or hearings within the State on any matter or matters related to the provisions of this act, and call to its assistance and avail itself of the services of the Public Employment Relations Commission and the employees of any State department, board, task force or agency which the task force determines possesses relevant data, analytical and professional expertise or other resources which may assist the task force in discharging its duties under this act. Each department, board, commission or agency of this State is hereby directed, to the extent not inconsistent with law, to cooperate fully with the task force and to furnish such information and assistance as is necessary to accomplish the purposes of this act. In addition, in order to facilitate the work of the task force, the Public Employment Relations Commission shall post on its website all collective negotiations agreements and interest arbitration awards entered or awarded after the date of enactment, including a summary of contract or arbitration award terms in a standard format developed by the Public Employment Relations Commission to facilitate comparisons. All collective negotiations agreements shall be submitted to the Public Employment Relations Commission within 15 days of contract execution.

e. (1) It shall be the duty of the task force to study the effect and impact of the arbitration award cap upon local property taxes; collective bargaining agreements; arbitration awards; municipal services; municipal expenditures; municipal public safety services, particularly changes in crime rates and response times to emergency situations; police and fire recruitment, hiring and retention; the professional profile of police and fire de-

partments, particularly with regard to age, experience, and staffing levels; and such other matters as the members deem appropriate and necessary to evaluate the effects and impact of the arbitration award cap.

(2) Specifically, the task force shall study total compensation rates, including factors subject to the arbitration award cap and factors exempt from the arbitration award cap, of police and fire personnel throughout the state and make recommendations thereon. The task force also shall study the interest arbitration process and make recommendations concerning its continued use in connection with police and fire labor contracts disputes. The task force shall make findings as to the relative growth in total compensation cost attributable to factors subject to the arbitration award cap and to factors exempt from the arbitration award cap, for both collective bargaining agreements and arbitration awards.

f. The task force shall report its findings, along with any recommendations it may have, to the Governor and the Legislature annually, on or before April 1 of each year. The task force's final report due on or before April 1, 2014 shall include, in addition to any other findings and recommendations, a specific recommendation for any amendments to the arbitration award cap. Upon the filing of its final report on or before April 1, 2014, the task force shall expire.

C.34:13A-16.9 Effective date.

4. This act shall take effect January 1, 2011; provided however, section 2 shall apply only to collective negotiations between a public employer and the exclusive representative of a public police department or public fire department that relate to a negotiated agreement expiring on that effective date or any date thereafter until April 1, 2014, whereupon the provisions of section 2 shall become inoperative for all parties except those whose collective negotiations agreements expired prior to April 1, 2014 but for whom a final settlement has not been reached. When final settlement between the parties in all such negotiations is reached, the provisions of section 2 of this act shall expire. In the case of a party that entered into a contract that expires on the effective date of this act or any date thereafter until April 1, 2014, and where the terms of that contract otherwise meet the criteria set forth in section 2 of this act, that party shall not be subject to the provisions of section 2 when negotiating a future contract.

Approved December 21, 2010.

CHAPTER 106

AN ACT concerning the Council on Local Mandates and amending P.L.1996, c.24.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Section 12 of P.L.1996, c.24 (C.52:13H-12) is amended to read as follows:

C.52:13H-12 Duties of council.

12. a. It shall be the duty of the council to review, and issue rulings upon, complaints filed with the council by or on behalf of a county, municipality, fire district designated by ordinance of a municipality or more than one municipality, or school district that any provision of a statute enacted on or after January 17, 1996 and any part of a rule or regulation originally adopted after July 1, 1996 pursuant to a law regardless of when that law was enacted constitutes an unfunded mandate upon the county, municipality, fire district designated by ordinance of a municipality or more than one municipality, or school district because it does not authorize resources to offset the additional direct expenditures required for the implementation of the statute or the rule or regulation. A complaint filed with the council shall be in the form of or accompanied by a resolution passed by the governing body of a county or municipality or fire district designated by ordinance of a municipality or more than one municipality, or by a local board of education. A complaint filed with the council by the New Jersey Conference of Mayors, the New Jersey State League of Municipalities, the New Jersey School Boards Association, the New Jersey Association of Counties, the New Jersey Council of County Colleges, the New Jersey Association of Fire Districts, the New Jersey Career Fire Chiefs Association, the New Jersey State Association of Chiefs of Police, or the New Jersey First Aid Council shall be on behalf of at least two constituent members of the organization, which constituent members shall be identified in the complaint. A county executive or a mayor who has been directly elected by the voters of the municipality may also file a written complaint with the council, after the mayor or county executive has provided the governing body with written notice of intention to file a complaint with the council. A complaint may be accompanied by supportive evidence. The council shall review each complaint and, when necessary, interview witnesses and examine docu-

ments. The council, by majority vote of its membership, shall issue a written ruling, accompanied by any concurring or dissenting opinions, as to whether or not a statute or a rule or regulation constitutes an unfunded State mandate and an explanation of the reasons for its determination. If the council determines that any provision of a statute or any part of a rule or regulation constitutes an unfunded State mandate which is prohibited by Article VIII, Section II, paragraph 5 of the New Jersey Constitution and this act, that provision of the law or that part of the rule or regulation shall cease to be mandatory in its effect and shall expire. A ruling of the council shall be restricted to the specific provision of a law or the specific part of a rule or regulation which constitutes an unfunded mandate and shall, as far as possible, leave intact the remainder of a statute or a rule or regulation. The council shall not have the authority to determine whether the funding of any statute or any rule or regulation is adequate.

b. The council shall have the authority to consolidate complaints filed by or on behalf of more than one governing body, mayor, county executive, local board of education, county, municipality, or fire district designated by ordinance of a municipality or more than one municipality, in regard to the same provision of a statute or the same part of a rule or regulation.

c. Any group or individual may file a written request with the council to appear in the capacity of an amicus curiae in regard to a complaint. The request shall state the identity of the group or individual, the issue it wishes to address, the nature of the public interest therein and the nature of the requestor's interest, involvement or expertise with respect thereto. The council shall grant the request if it is determined by a majority vote of the council's members that the request is timely, that participation by the group or individual will assist in the resolution of the matter and that no interested party will be prejudiced thereby. In granting permission, the council shall specifically define the extent of the requestor's participation in the matter.

2. Section 2 of P.L.1996, c.24 (C.52:13H-2) is amended to read as follows:

C.52:13H-2 Unfunded mandate; mandatory status ceased, expiration.

2. Except as provided in section 3 of this act, any provision of a law enacted on or after January 17, 1996, or any part of a rule or regulation originally adopted after July 1, 1996 pursuant to a law regardless of when that law was enacted, which is determined in accordance with the provisions of this act to be an unfunded mandate upon boards of education, counties, municipalities, or fire districts designated by municipal ordinance, because it

does not authorize resources to offset the additional direct expenditures required for the implementation of the law or the rule or regulation, shall cease to be mandatory in its effect and shall expire. A law or a rule or regulation which is determined to be an unfunded mandate shall not be considered to establish a standard of care for the purpose of civil liability.

3. This act shall take effect immediately.

Approved December 23, 2010.

CHAPTER 107

AN ACT requiring State entities to examine the opportunity of minority and women-owned financial institutions to serve as senior managing underwriters for State debt transactions, imposing reporting requirements, and enabling the establishment of aspirational levels of utilization and relative compensation, supplementing chapter 32 of Title 52 of the Revised Statutes.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

C.52:32-48 Qualified minority, women-owned financial institutions, service as senior managing underwriters, certain transactions; report; definitions.

1. a. For each State fiscal year commencing after the effective date of P.L.2010, c.107, a State entity which engages in debt transactions shall examine the opportunity of qualified minority and women-owned financial institutions to serve as senior managing underwriters for such transactions. The State entity shall report the findings of the examination to the State Treasurer, and to the Legislature upon the explicit request thereof.

b. The report required by subsection a. of this section shall include:

(1) the total number of the State entity's debt transactions in which qualified minority and women-owned financial institutions served as senior managing underwriters;

(2) the total number of qualified minority and women-owned financial institutions which sought unsuccessfully to serve as senior managing underwriters for the State entity's debt transactions;

(3) the total number of qualified minority and women-owned financial institutions available to serve as senior managing underwriters for the State entity's debt transactions;

(4) the total number of qualified minority and women-owned financial institutions available to serve as senior managing underwriters for the State entity's debt transactions whose primary trading, underwriting or investment banking activities were located within the State;

(5) the total number of State entity debt transactions in which a qualified minority and women-owned financial institution served as senior managing underwriters, relative to the total number of debt transactions undertaken by the State entity;

(6) the total value of the State entity's debt transactions in which a qualified minority and women-owned financial institution served as senior managing underwriters, relative to the total value of debt transactions undertaken by the State entity; and

(7) the total and per transaction value of the compensation provided to qualified minority and women-owned financial institutions who serve as senior managing underwriters for the State entity's debt transactions relative to the total and per transaction value of compensation provided to financial institutions, other than qualified minority and women-owned financial institutions, who serve as senior managing underwriters for the State entity's debt transactions.

c. A report owed pursuant to this section shall be due on the first business day after the January 1 immediately following the end of the State fiscal year for which the report is due. The State Treasurer shall determine uniform methods of data collection and reporting to effectuate this section. The State Treasurer may provide for a reporting method in which the requirements of subsection b. of this section are reported within categories defined by intervals of debt transaction valuations.

d. The State Treasurer may establish an aspirational level of utilization and relative compensation of qualified minority and women-owned financial institutions serving as senior managing underwriters in the State entity's debt transactions if such an aspirational level of utilization and relative compensation can be established in a manner consistent with the responsibility to seek out the most economically optimal arrangements available for debt transactions, in accordance with the requirement that all persons shall have the full and equal benefit of all laws, and in the presence of a gross statistical disparity in the utilization and relative compensation of qualified minority and women-owned financial institutions serving as senior managing underwriters for a State entity's debt transactions as evidenced in a report due under subsection a. of this section. An aspirational level of utilization and relative compensation shall not be construed as a mandated quota and shall not be enforceable, but shall be considered as a

goal that the State entity is encouraged to achieve. The State Treasurer shall suspend an aspirational level of utilization and relative compensation upon finding the conditions which lead to its establishment are no longer present.

e. A State entity, having been assigned an aspirational level of utilization and relative compensation of minority and women-owned financial institutions serving as senior managing underwriters in the State entity's debt transactions, shall include in its report due under subsection a. of this section a listing of impediments to the utilization and comparable compensation of minority and women-owned financial institutions serving as senior managing underwriters for the State entity's debt transactions and proposals to enhance the utilization and compensation of qualified minority and women-owned financial institutions serving as senior managing underwriters for the State entity's debt transactions.

f. In the event the State Treasurer finds and certifies that impediments to the utilization and comparable compensation of minority and women-owned financial institutions continue to exist six months before the initial expiration date of P.L.2010, c.107, the State Treasurer shall report such findings to the Legislature in accordance with section 2 of P.L.1991, c.164 (C.52:14-19.1) within 60 days thereof and P.L.2010, c.107 shall not expire but shall remain in effect for another five years, or until the State Treasurer finds and certifies that the impediments to the utilization and comparable compensation of minority and women-owned financial institutions cease to exist, whichever occurs first. P.L.2010, c.107 shall expire upon the State Treasurer notifying the Legislature that the impediments cease to exist or that the five-year period has ended, whichever occurs first.

g. As used in this section:

"Debt transaction" means the creation or refinancing of a bond, note or other financial instrument for which repayment is due.

"Qualified minority and women-owned financial institution" means a financial institution qualified to engage in State entity debt transactions that has a valid certification as a "minority business" or a "women's business" pursuant to P.L.1986, c.195 (C.52:27H-21.17 et seq.).

"Senior managing underwriter" means the lead and book running manager of the syndicate of underwriters of the State's or State entity's debt transactions.

"State entity" means a State department or agency, board, commission, corporation or authority.

h. If any section, subsection, paragraph, sentence or other part of this act is adjudged unconstitutional or invalid, such judgment shall not af-

fect, impair or invalidate the remainder of this act, but shall be confined in its effect to the section, subsection, paragraph, sentence or other part of this act directly involved in the controversy in which said judgment shall have been rendered.

2. This act shall take effect immediately and shall expire on the fifth anniversary of the effective date, except as provided for by subsection f. of section 1.

Approved January 4, 2011.

CHAPTER 108

AN ACT concerning the bidding process for certain local public contracts, amending P.L.1997, c.371, and amending and supplementing P.L.1971, c.198.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Section 2 of P.L.1971, c.198 (C.40A:11-2) is amended to read as follows:

C.40A:11-2 Definitions.

2. As used herein the following words have the following definitions, unless the context otherwise indicates:

(1) "Contracting unit" means:

(a) Any county; or

(b) Any municipality; or

(c) Any board, commission, committee, authority or agency, which is not a State board, commission, committee, authority or agency, and which has administrative jurisdiction over any district other than a school district, project, or facility, included or operating in whole or in part, within the territorial boundaries of any county or municipality which exercises functions which are appropriate for the exercise by one or more units of local government, and which has statutory power to make purchases and enter into contracts awarded by a contracting agent for the provision or performance of goods or services.

The term shall not include a private firm that has entered into a contract with a public entity for the provision of water supply services pursuant to P.L.1995, c.101 (C.58:26-19 et al.).

"Contracting unit" shall not include a private firm or public authority that has entered into a contract with a public entity for the provision of wastewater treatment services pursuant to P.L.1995, c.216 (C.58:27-19 et al.).

"Contracting unit" shall not include a duly incorporated nonprofit association that has entered into a contract with the governing body of a city of the first class for the provision of water supply services or wastewater treatment services pursuant to section 2 of P.L.2002, c.47 (C.40A:11-5.1).

"Contracting unit" shall not include a duly incorporated nonprofit entity that has entered into a contract for management and operation services with a municipal hospital authority established pursuant to P.L.2006, c.46 (C.30:9-23.15 et al.).

(2) "Governing body" means:

(a) The governing body of the county, when the purchase is to be made or the contract or agreement is to be entered into by, or in behalf of, a county; or

(b) The governing body of the municipality, when the purchase is to be made or the contract or agreement is to be entered into by, or on behalf of, a municipality; or

(c) Any board, commission, committee, authority or agency of the character described in subsection (1) (c) of this section.

(3) "Contracting agent" means the governing body of a contracting unit, or its authorized designee, which has the power to prepare the advertisements, to advertise for and receive bids and, as permitted by this act, to make awards for the contracting unit in connection with purchases, contracts or agreements.

(4) "Purchase" means a transaction, for a valuable consideration, creating or acquiring an interest in goods, services and property, except real property or any interest therein.

(5) (Deleted by amendment, P.L.1999, c.440.)

(6) "Professional services" means services rendered or performed by a person authorized by law to practice a recognized profession, whose practice is regulated by law, and the performance of which services requires knowledge of an advanced type in a field of learning acquired by a prolonged formal course of specialized instruction and study as distinguished from general academic instruction or apprenticeship and training. Professional services may also mean services rendered in the provision or per-

formance of goods or services that are original and creative in character in a recognized field of artistic endeavor.

(7) "Extraordinary unspecifiable services" means services which are specialized and qualitative in nature requiring expertise, extensive training and proven reputation in the field of endeavor.

(8) (Deleted by amendment, P.L.1999, c.440.)

(9) "Work" includes services and any other activity of a tangible or intangible nature performed or assumed pursuant to a contract or agreement with a contracting unit.

(10) "Homemaker--home health services" means at home personal care and home management provided to an individual or members of the individual's family who reside with the individual, or both, necessitated by the individual's illness or incapacity. "Homemaker--home health services" includes, but is not limited to, the services of a trained homemaker.

(11) "Recyclable material" means those materials which would otherwise become municipal solid waste, and which may be collected, separated or processed and returned to the economic mainstream in the form of raw materials or products.

(12) "Recycling" means any process by which materials which would otherwise become solid waste are collected, separated or processed and returned to the economic mainstream in the form of raw materials or products.

(13) "Marketing" means the sale, disposition, assignment, or placement of designated recyclable materials with, or the granting of a concession to, a reseller, processor, materials recovery facility, or end-user of recyclable material, in accordance with a district solid waste management plan adopted pursuant to P.L.1970, c.39 (C.13:1E-1 et seq.) and shall not include the collection of such recyclable material when collected through a system of routes by local government unit employees or under a contract administered by a local government unit.

(14) "Municipal solid waste" means, as appropriate to the circumstances, all residential, commercial and institutional solid waste generated within the boundaries of a municipality; or the formal collection of such solid wastes or recyclable material in any combination thereof when collected through a system of routes by local government unit employees or under a contract administered by a local government unit.

(15) "Distribution" (when used in relation to electricity) means the process of conveying electricity from a contracting unit that is a generator of electricity or a wholesale purchaser of electricity to retail customers or other end users of electricity.

(16) "Transmission" (when used in relation to electricity) means the conveyance of electricity from its point of generation to a contracting unit that purchases it on a wholesale basis for resale.

(17) "Disposition" means the transportation, placement, reuse, sale, donation, transfer or temporary storage of recyclable materials for all possible uses except for disposal as municipal solid waste.

(18) "Cooperative marketing" means the joint marketing by two or more contracting units of the source separated recyclable materials designated in a district recycling plan required pursuant to section 3 of P.L.1987, c.102 (C.13:1E-99.13) pursuant to a written cooperative agreement entered into by the participating contracting units thereof.

(19) "Aggregate" means the sums expended or to be expended for the provision or performance of any goods or services in connection with the same immediate purpose or task, or the furnishing of similar goods or services, during the same contract year through a contract awarded by a contracting agent.

(20) "Bid threshold" means the dollar amount set in section 3 of P.L.1971, c.198 (C.40A:11-3), above which a contracting unit shall advertise for and receive sealed bids in accordance with procedures set forth in P.L.1999, c.440 (C.40A:11-4.1 et al.).

(21) "Contract" means any agreement, including but not limited to a purchase order or a formal agreement, which is a legally binding relationship enforceable by law, between a vendor who agrees to provide or perform goods or services and a contracting unit which agrees to compensate a vendor, as defined by and subject to the terms and conditions of the agreement. A contract also may include an arrangement whereby a vendor compensates a contracting unit for the vendor's right to perform a service, such as, but not limited to, operating a concession.

(22) "Contract year" means the period of 12 consecutive months following the award of a contract.

(23) "Competitive contracting" means the method described in sections 1 through 5 of P.L.1999, c.440 (C.40A:11-4.1 thru 40A:11-4.5) of contracting for specialized goods and services in which formal proposals are solicited from vendors; formal proposals are evaluated by the purchasing agent or counsel or administrator; and the governing body awards a contract to a vendor or vendors from among the formal proposals received.

(24) "Goods and services" or "goods or services" means any work, labor, commodities, equipment, materials, or supplies of any tangible or intangible nature, except real property or any interest therein, provided or

performed through a contract awarded by a contracting agent, including goods and property subject to N.J.S.12A:2-101 et seq.

(25) "Library and educational goods and services" means textbooks, copyrighted materials, student produced publications and services incidental thereto, including but not limited to books, periodicals, newspapers, documents, pamphlets, photographs, reproductions, microfilms, pictorial or graphic works, musical scores, maps, charts, globes, sound recordings, slides, films, filmstrips, video and magnetic tapes, other printed or published matter and audiovisual and other materials of a similar nature, necessary binding or rebinding of library materials, and specialized computer software used as a supplement or in lieu of textbooks or reference material.

(26) "Lowest price" means the least possible amount that meets all requirements of the request of a contracting agent.

(27) "Lowest responsible bidder or vendor" means the bidder or vendor: (a) whose response to a request for bids offers the lowest price and is responsive; and (b) who is responsible.

(28) "Official newspaper" means any newspaper designated by the contracting unit pursuant to R.S.35:1-1 et seq.

(29) "Purchase order" means a document issued by the contracting agent authorizing a purchase transaction with a vendor to provide or perform goods or services to the contracting unit, which, when fulfilled in accordance with the terms and conditions of a request of a contracting agent and other provisions and procedures that may be established by the contracting unit, will result in payment by the contracting unit.

(30) "Purchasing agent" means the individual duly assigned the authority, responsibility, and accountability for the purchasing activity of the contracting unit, and who has such duties as are defined by an authority appropriate to the form and structure of the contracting unit, pursuant to P.L.1971, c.198 (C.40A:11-1 et seq.) and who possesses a qualified purchasing agent certificate.

(31) "Quotation" means the response to a formal or informal request made by a contracting agent by a vendor for provision or performance of goods or services, when the aggregate cost is less than the bid threshold. Quotations may be in writing, or taken verbally if a record is kept by the contracting agent.

(32) "Responsible" means able to complete the contract in accordance with its requirements, including but not limited to requirements pertaining to experience, moral integrity, operating capacity, financial capacity, credit, and workforce, equipment, and facilities availability.

(33) "Responsive" means conforming in all material respects to the terms and conditions, specifications, legal requirements, and other provisions of the request.

(34) "Public works" means building, altering, repairing, improving or demolishing any public structure or facility constructed or acquired by a contracting unit to house local government functions or provide water, waste disposal, power, transportation, and other public infrastructures.

(35) "Director" means the Director of the Division of Local Government Services in the Department of Community Affairs.

(36) "Administrator" means a municipal administrator appointed pursuant to N.J.S.40A:9-136 and N.J.S.40A:9-137; a business administrator, a municipal manager or a municipal administrator appointed pursuant to the "Optional Municipal Charter Law," P.L.1950, c.210 (C.40:69A-1 et seq.); a municipal manager appointed pursuant to "the municipal manager form of government law," R.S.40:79-1 et seq.; or the person holding responsibility for the overall operations of an authority that falls under the "Local Authorities Fiscal Control Law," P.L.1983, c.313 (C.40A:5A-1 et seq.).

(37) "Concession" means the granting of a license or right to act for or on behalf of the contracting unit, or to provide a service requiring the approval or endorsement of the contracting unit, and which may or may not involve a payment or exchange, or provision of services by or to the contracting unit.

(38) "Index rate" means the rate of annual percentage increase, rounded to the nearest half-percent, in the Implicit Price Deflator for State and Local Government Purchases of Goods and Services, computed and published quarterly by the United States Department of Commerce, Bureau of Economic Analysis.

(39) "Proprietary" means goods or services of a specialized nature, that may be made or marketed by a person or persons having the exclusive right to make or sell them, when the need for such goods or services has been certified in writing by the governing body of the contracting unit to be necessary for the conduct of its affairs.

(40) "Service or services" means the performance of work, or the furnishing of labor, time, or effort, or any combination thereof, not involving or connected to the delivery or ownership of a specified end product or goods or a manufacturing process. Service or services may also include an arrangement in which a vendor compensates the contracting unit for the vendor's right to operate a concession.

(41) "Qualified purchasing agent certificate" means a certificate granted by the director pursuant to section 9 of P.L.1971, c.198 (C.40A:11-9).

(42) "Mistake" means, for a public works project, a clerical error that is an unintentional and substantial computational error or an unintentional omission of a substantial quantity of labor, material, or both, from the final bid computation.

2. Section 1 of P.L.1997, c.371 (C.40A:11-50) is amended to read as follows:

C.40A:11-50 Process of resolution for construction contract disputes.

1. All construction contract documents entered into in accordance with the provisions of P.L.1971, c.198 (C.40A:11-1 et seq.) after the effective date of P.L.1997, c.371 (C.40A:11-50) shall provide that disputes arising under the contract shall be submitted to a process of resolution pursuant to alternative dispute resolution practices, such as mediation, binding arbitration or non-binding arbitration pursuant to industry standards, prior to being submitted to a court for adjudication. Nothing in this section shall prevent the contracting unit from seeking injunctive or declaratory relief in court at any time. The alternative dispute resolution practices required by this section shall not apply to disputes concerning the bid solicitation or award process, bid withdrawal, or to the formation of contracts or subcontracts to be entered into pursuant to P.L.1971, c.198 (C.40A:11-1 et seq.).

Notwithstanding industry rules or any provision of law to the contrary, whenever a dispute concerns more than one contract, such as when a dispute in a contract involving construction relates to a contract involving design, architecture, engineering or management, upon the demand of a contracting party, other interested parties to the dispute shall be joined unless the arbitrator or person appointed to resolve the dispute determines that such joinder is inappropriate. Notwithstanding industry rules or any provision of law to the contrary, whenever more than one dispute of a similar nature arises under a construction contract, or related construction contracts, upon the demand of a contracting party, the disputes shall be joined unless the arbitrator or person appointed to resolve the dispute determines that the disputes are inappropriate for joinder.

For the purposes of this section, the term "construction contract" means a contract involving construction, or a contract related thereto concerning architecture, engineering or construction management.

C.40A:11-23.3 Withdrawal of public works bid.

3. a. In the case of a bidding process for a public works contract, a bidder may request withdrawal of a bid, due to a mistake on the part of the

bidder, within five business days after a bid opening. As used in this section, "mistake" shall have the same meaning as provided in paragraph 42 of section 2 of P.L.1971, c.198 (C.40A:11-2).

b. To request the withdrawal of a public works bid, a bidder shall submit a request for withdrawal in writing by certified or registered mail to the address to which the bid was submitted. The request shall be effective upon mailing. The request shall include evidence, including any pertinent documents, demonstrating that a mistake was made and was of so great a consequence that:

(1) the enforcement of the contract, if actually made, would be unconscionable;

(2) the mistake relates to a material feature of the bid;

(3) the mistake occurred notwithstanding the fact that the bidder exercised reasonable care in preparation of the bid; and

(4) the bidder making the mistake is able to get relief by way of withdrawing the bid without serious prejudice to the contracting unit, except for the loss of the bargain to the contracting unit.

c. A purchasing agent qualified pursuant to subsection b. of section 9 of P.L.1971, c.198 (C.40A:11-9), or legal counsel for the contracting unit, or the chief administrative officer of the contracting unit, shall review the request for bid withdrawal. No later than the next meeting of the governing body of the contracting unit following receipt of the withdrawal request, the individual responsible for reviewing the request shall make a recommendation to the governing body of the contracting unit concerning the disposition of the request. The governing body of the contracting unit shall act upon the request to withdraw the bid no later than at its next regular meeting.

d. The purchasing agent, legal counsel, or chief administrative officer responsible for reviewing the request pursuant to subsection b. of this section, shall act in good faith in reviewing the request and in making a recommendation to the governing body concerning the disposition of a request to withdraw a bid.

e. A contracting unit whose governing body grants a request to withdraw a bid shall return the bid guarantee to the bidder. Once the decision to approve the withdrawal is made, the contracting unit shall continue the award process with the remaining bids.

f. If a bidder withdraws a bid, the bidder shall be disqualified from future bidding on the same project, including whenever all bids are rejected pursuant to section 21 of P.L.1999, c.440 (C.40A:11-13.2).

4. This act shall take effect on the 60th day following the day of enactment.

Approved January 4, 2011.

CHAPTER 109

AN ACT concerning assault and amending N.J.S.2C:12-1.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. N.J.S.2C:12-1 is amended to read as follows:

Assault.

2C:12-1. Assault. a. Simple assault. A person is guilty of assault if he:

(1) Attempts to cause or purposely, knowingly or recklessly causes bodily injury to another; or

(2) Negligently causes bodily injury to another with a deadly weapon; or

(3) Attempts by physical menace to put another in fear of imminent serious bodily injury.

Simple assault is a disorderly persons offense unless committed in a fight or scuffle entered into by mutual consent, in which case it is a petty disorderly persons offense.

b. Aggravated assault. A person is guilty of aggravated assault if he:

(1) Attempts to cause serious bodily injury to another, or causes such injury purposely or knowingly or under circumstances manifesting extreme indifference to the value of human life recklessly causes such injury; or

(2) Attempts to cause or purposely or knowingly causes bodily injury to another with a deadly weapon; or

(3) Recklessly causes bodily injury to another with a deadly weapon; or

(4) Knowingly under circumstances manifesting extreme indifference to the value of human life points a firearm, as defined in section 2C:39-1f., at or in the direction of another, whether or not the actor believes it to be loaded; or

(5) Commits a simple assault as defined in subsection a. (1), (2) or (3) of this section upon:

(a) Any law enforcement officer acting in the performance of his duties while in uniform or exhibiting evidence of his authority or because of his status as a law enforcement officer; or

(b) Any paid or volunteer fireman acting in the performance of his duties while in uniform or otherwise clearly identifiable as being engaged in the performance of the duties of a fireman; or

(c) Any person engaged in emergency first-aid or medical services acting in the performance of his duties while in uniform or otherwise clearly identifiable as being engaged in the performance of emergency first-aid or medical services; or

(d) Any school board member, school administrator, teacher, school bus driver or other employee of a public or nonpublic school or school board while clearly identifiable as being engaged in the performance of his duties or because of his status as a member or employee of a public or nonpublic school or school board or any school bus driver employed by an operator under contract to a public or nonpublic school or school board while clearly identifiable as being engaged in the performance of his duties or because of his status as a school bus driver; or

(e) Any employee of the Division of Youth and Family Services while clearly identifiable as being engaged in the performance of his duties or because of his status as an employee of the division; or

(f) Any justice of the Supreme Court, judge of the Superior Court, judge of the Tax Court or municipal judge while clearly identifiable as being engaged in the performance of judicial duties or because of his status as a member of the judiciary; or

(g) Any operator of a motorbus or the operator's supervisor or any employee of a rail passenger service while clearly identifiable as being engaged in the performance of his duties or because of his status as an operator of a motorbus or as the operator's supervisor or as an employee of a rail passenger service; or

(h) Any Department of Corrections employee, county corrections officer, juvenile corrections officer, State juvenile facility employee, juvenile detention staff member, juvenile detention officer, probation officer or any sheriff, undersheriff, or sheriff's officer acting in the performance of his duties while in uniform or exhibiting evidence of his authority; or

(i) Any employee, including any person employed under contract, of a utility company as defined in section 2 of P.L.1971, c.224 (C.2A:42-86) or a cable television company subject to the provisions of the "Cable Television Act," P.L.1972, c.186 (C.48:5A-1 et seq.) while clearly identifiable as being engaged in the performance of his duties in regard to connecting, dis-

connecting or repairing or attempting to connect, disconnect or repair any gas, electric or water utility, or cable television or telecommunication service; or

(j) Any health care worker employed by a licensed health care facility to provide direct patient care, any health care professional licensed or otherwise authorized pursuant to Title 26 or Title 45 of the Revised Statutes to practice a health care profession, except a direct care worker at a State or county psychiatric hospital or State developmental center or veterans' memorial home, while clearly identifiable as being engaged in the duties of providing direct patient care or practicing the health care profession; or

(k) Any direct care worker at a State or county psychiatric hospital or State developmental center or veterans' memorial home, while clearly identifiable as being engaged in the duties of providing direct patient care or practicing the health care profession, provided that the actor is not a patient or resident at the facility who is classified by the facility as having a mental illness or developmental disability; or

(6) Causes bodily injury to another person while fleeing or attempting to elude a law enforcement officer in violation of subsection b. of N.J.S.2C:29-2 or while operating a motor vehicle in violation of subsection c. of N.J.S.2C:20-10. Notwithstanding any other provision of law to the contrary, a person shall be strictly liable for a violation of this subsection upon proof of a violation of subsection b. of N.J.S.2C:29-2 or while operating a motor vehicle in violation of subsection c. of N.J.S.2C:20-10 which resulted in bodily injury to another person; or

(7) Attempts to cause significant bodily injury to another or causes significant bodily injury purposely or knowingly or, under circumstances manifesting extreme indifference to the value of human life recklessly causes such significant bodily injury; or

(8) Causes bodily injury by knowingly or purposely starting a fire or causing an explosion in violation of N.J.S.2C:17-1 which results in bodily injury to any emergency services personnel involved in fire suppression activities, rendering emergency medical services resulting from the fire or explosion or rescue operations, or rendering any necessary assistance at the scene of the fire or explosion, including any bodily injury sustained while responding to the scene of a reported fire or explosion. For purposes of this subsection, "emergency services personnel" shall include, but not be limited to, any paid or volunteer fireman, any person engaged in emergency first-aid or medical services and any law enforcement officer. Notwithstanding any other provision of law to the contrary, a person shall be strictly liable

for a violation of this paragraph upon proof of a violation of N.J.S.2C:17-1 which resulted in bodily injury to any emergency services personnel; or

(9) Knowingly, under circumstances manifesting extreme indifference to the value of human life, points or displays a firearm, as defined in subsection f. of N.J.S.2C:39-1, at or in the direction of a law enforcement officer; or

(10) Knowingly points, displays or uses an imitation firearm, as defined in subsection f. of N.J.S.2C:39-1, at or in the direction of a law enforcement officer with the purpose to intimidate, threaten or attempt to put the officer in fear of bodily injury or for any unlawful purpose; or

(11) Uses or activates a laser sighting system or device, or a system or device which, in the manner used, would cause a reasonable person to believe that it is a laser sighting system or device, against a law enforcement officer acting in the performance of his duties while in uniform or exhibiting evidence of his authority. As used in this paragraph, "laser sighting system or device" means any system or device that is integrated with or affixed to a firearm and emits a laser light beam that is used to assist in the sight alignment or aiming of the firearm.

Aggravated assault under subsections b. (1) and b. (6) is a crime of the second degree; under subsections b. (2), b. (7), b. (9) and b. (10) is a crime of the third degree; under subsections b. (3) and b. (4) is a crime of the fourth degree; and under subsection b. (5) is a crime of the third degree if the victim suffers bodily injury, otherwise it is a crime of the fourth degree. Aggravated assault under subsection b.(8) is a crime of the third degree if the victim suffers bodily injury; if the victim suffers significant bodily injury or serious bodily injury it is a crime of the second degree. Aggravated assault under subsection b. (11) is a crime of the third degree.

c. (1) A person is guilty of assault by auto or vessel when the person drives a vehicle or vessel recklessly and causes either serious bodily injury or bodily injury to another. Assault by auto or vessel is a crime of the fourth degree if serious bodily injury results and is a disorderly persons offense if bodily injury results.

(2) Assault by auto or vessel is a crime of the third degree if the person drives the vehicle while in violation of R.S.39:4-50 or section 2 of P.L.1981, c.512 (C.39:4-50.4a) and serious bodily injury results and is a crime of the fourth degree if the person drives the vehicle while in violation of R.S.39:4-50 or section 2 of P.L.1981, c.512 (C.39:4-50.4a) and bodily injury results.

(3) Assault by auto or vessel is a crime of the second degree if serious bodily injury results from the defendant operating the auto or vessel while

in violation of R.S.39:4-50 or section 2 of P.L.1981, c.512 (C.39:4-50.4a) while:

(a) on any school property used for school purposes which is owned by or leased to any elementary or secondary school or school board, or within 1,000 feet of such school property;

(b) driving through a school crossing as defined in R.S.39:1-1 if the municipality, by ordinance or resolution, has designated the school crossing as such; or

(c) driving through a school crossing as defined in R.S.39:1-1 knowing that juveniles are present if the municipality has not designated the school crossing as such by ordinance or resolution.

Assault by auto or vessel is a crime of the third degree if bodily injury results from the defendant operating the auto or vessel in violation of this paragraph.

A map or true copy of a map depicting the location and boundaries of the area on or within 1,000 feet of any property used for school purposes which is owned by or leased to any elementary or secondary school or school board produced pursuant to section 1 of P.L.1987, c.101 (C.2C:35-7) may be used in a prosecution under subparagraph (a) of paragraph (3) of this subsection.

It shall be no defense to a prosecution for a violation of subparagraph (a) or (b) of paragraph (3) of this subsection that the defendant was unaware that the prohibited conduct took place while on or within 1,000 feet of any school property or while driving through a school crossing. Nor shall it be a defense to a prosecution under subparagraph (a) or (b) of paragraph (3) of this subsection that no juveniles were present on the school property or crossing zone at the time of the offense or that the school was not in session.

As used in this section, "vessel" means a means of conveyance for travel on water and propelled otherwise than by muscular power.

d. A person who is employed by a facility as defined in section 2 of P.L.1977, c.239 (C.52:27G-2) who commits a simple assault as defined in paragraph (1) or (2) of subsection a. of this section upon an institutionalized elderly person as defined in section 2 of P.L.1977, c.239 (C.52:27G-2) is guilty of a crime of the fourth degree.

e. (Deleted by amendment, P.L.2001, c.443).

f. A person who commits a simple assault as defined in paragraph (1), (2) or (3) of subsection a. of this section in the presence of a child under 16 years of age at a school or community sponsored youth sports event is guilty of a crime of the fourth degree. The defendant shall be strictly liable

upon proof that the offense occurred, in fact, in the presence of a child under 16 years of age. It shall not be a defense that the defendant did not know that the child was present or reasonably believed that the child was 16 years of age or older. The provisions of this subsection shall not be construed to create any liability on the part of a participant in a youth sports event or to abrogate any immunity or defense available to a participant in a youth sports event. As used in this act, "school or community sponsored youth sports event" means a competition, practice or instructional event involving one or more interscholastic sports teams or youth sports teams organized pursuant to a nonprofit or similar charter or which are member teams in a youth league organized by or affiliated with a county or municipal recreation department and shall not include collegiate, semi-professional or professional sporting events.

2. This act shall take effect immediately.

Approved January 4, 2011.

CHAPTER 110

AN ACT concerning gang related incident offense reports and amending P.L.1966, c.37.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Section 3 of P.L.1966, c.37 (C.52:17B-5.3) is amended to read as follows:

C.52:17B-5.3 Quarterly crime report by local and county police; contents, incidence of street gang activity, bias crime.

3. a. All local and county police authorities shall submit a quarterly report to the Attorney General, on forms prescribed by the Attorney General, which report shall contain the number and nature of offenses committed within their respective jurisdictions, the disposition of such matters, information relating to criminal street gang activities within their respective jurisdictions, information relating to any offense directed against a person or group, or their property, by reason of their race, color, religion, gender, disability, sexual orientation, gender identity or expression, national origin,

or ethnicity and such other information as the Attorney General may require, respecting information relating to the cause and prevention of crime, recidivism, the rehabilitation of criminals and the proper administration of criminal justice.

b. A law enforcement officer who responds to an offense involving criminal street gang activity shall complete a gang related incident offense report on a form prescribed by the Superintendent of State Police. All information contained in the gang related incident offense report shall be forwarded to the Superintendent of State Police for inclusion in the Uniform Crime Report.

2 This act shall take effect on the first day of the seventh month following enactment.

Approved January 4, 2011.

CHAPTER 111

AN ACT concerning baked goods and other food products and the "Jersey Fresh" designation, amending P.L.1999, c.32 and P.L.2008, c.40, and supplementing P.L.1939, c.136 (C.4:10-16 et seq.).

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

C.4:10-19.1 "Made With Jersey Fresh" designated products.

1. The Secretary of Agriculture in conjunction with the State Board of Agriculture shall develop and implement the inclusion of baked goods or other food products that are baked or made with "Jersey Fresh" products into the "Jersey Fresh" designation and program as "Made With Jersey Fresh" designated products.

2. Section 3 of P.L.2008, c.40 (C.4:1-11.2) is amended to read as follows:

C.4:1-11.2 Rules, regulations.

3. The State Board of Agriculture shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations to provide for the buying and selling of agricultural or horticul-

tural products, and baked goods or other food products that are baked or made with "Jersey Fresh" products, at service areas along toll roads in the State that may be transported in or out of State from those service areas.

3. Section 1 of P.L.2008, c.40 (C.27:23-48) is amended to read as follows:

C.27:23-48 New Jersey Turnpike Authority, sale of "Jersey Fresh," "Made With Jersey Fresh" products at certain service areas.

1. a. The New Jersey Turnpike Authority shall adopt, in consultation with the Department of Agriculture and pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations to provide for and encourage the sale of agricultural products labeled "Jersey Fresh", other agricultural or horticultural products grown and raised in the State, and "Made With Jersey Fresh" products that are baked or made with "Jersey Fresh" products, at service areas along the Garden State Parkway and the New Jersey Turnpike. These rules and regulations shall include, but need not be limited to, provisions allowing for:

(1) the selection of appropriate service areas;

(2) the designation of locations for such sales at selected service areas;

(3) procedures for growers and sellers of agricultural or horticultural products, and bakers or producers of "Made With Jersey Fresh" products, to use these designated sales locations; and

(4) compliance with the rules and regulations adopted by the State Board of Agriculture pursuant to section 3 of P.L.2008, c.40 (C.4:1-11.2).

b. To the extent necessary, appropriate, and practicable, the New Jersey Turnpike Authority shall initiate discussions with contracted vendors at service areas concerning the promotion and sale of agricultural products labeled "Jersey Fresh" and other agricultural or horticultural products, and "Made With Jersey Fresh" baked goods and other food products, at service areas and shall incorporate any necessary provisions in the contracts of the vendors to allow for the promotion and sale of these products at service areas along the Garden State Parkway and the New Jersey Turnpike.

4. Section 2 of P.L.2008, c.40 (C.27:25A-43) is amended to read as follows:

C.27:25A-43 South Jersey Transportation Authority, sales of "Jersey Fresh," "Made With Jersey Fresh" products at service areas along the Atlantic City Expressway.

2. a. The South Jersey Transportation Authority shall adopt, in consultation with the Department of Agriculture and pursuant to the "Administra-

tive Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations to provide for and encourage the sale of agricultural products labeled "Jersey Fresh", other agricultural or horticultural products grown and raised in the State, and "Made With Jersey Fresh" products that are baked or made with "Jersey Fresh" products, at service areas along the Atlantic City Expressway. These rules and regulations shall include, but need not be limited to, provisions allowing for:

(1) the selection of appropriate service areas;

(2) the designation of locations for such sales at selected service areas;

(3) procedures for growers and sellers of agricultural or horticultural products, and bakers and producers of "Made With Jersey Fresh" products, to use these designated sales locations; and

(4) compliance with the rules and regulations adopted by the State Board of Agriculture pursuant to section 3 of P.L.2008, c.40 (C.4:1-11.2).

b. To the extent necessary, appropriate, and practicable, the South Jersey Turnpike Authority shall initiate discussions with contracted vendors at service areas concerning the promotion and sale of agricultural products labeled "Jersey Fresh" and other agricultural or horticultural products, and "Made With Jersey Fresh" baked goods and other food products, at service areas and shall incorporate any necessary provisions in the contracts of the vendors to allow for the promotion and sale of these products at service areas along the Atlantic City Expressway.

5. Section 1 of P.L.1999, c.32 (C.52:32-1.6) is amended to read as follows:

C.52:32-1.6 Review, modification of bid, product specifications relative to purchase of "Jersey Fresh," "Jersey Grown," "Made With Jersey Fresh" products or commodities.

1. a. The Director of the Division of Purchase and Property in the Department of the Treasury shall, upon consultation with the Department of Agriculture, review and modify all bid and product specifications relating to the purchase of agricultural and horticultural products and commodities, so that the specifications do not discriminate against, but encourage, the maximum purchase of "Jersey Fresh," "Jersey Grown," other agricultural food products and commodities grown or raised in New Jersey, and "Made With Jersey Fresh" baked goods or other food products baked or made with "Jersey Fresh" products. In purchasing any agricultural or horticultural products, commodities, or goods for use by the various agencies and departments of the State government, for the entities defined in section 1 of P.L.1959, c.40 (C.52:27B-56.1), or for any county, municipality or school

district pursuant to P.L.1969, c.104 (C.52:25-16.1 et al.), the Director of the Division of Purchase and Property, to the maximum extent possible, shall make contracts available for "Jersey Fresh," "Jersey Grown," other agricultural food products and commodities grown or raised in New Jersey, and "Made With Jersey Fresh" baked goods or other food products baked or made with "Jersey Fresh" products, unless the director determines it to be inconsistent with the public interest or the cost to be unreasonable. The Department of Agriculture shall provide information regarding the location and time of year "Jersey Fresh," "Jersey Grown," "Made With Jersey Fresh," and other agricultural food products and commodities grown or raised in New Jersey are available to the Division of Purchase and Property.

b. To the extent any agency or department of State government purchases agricultural or horticultural products or commodities other than through or by the Division of Purchase and Property, the agency or department shall follow guidelines therefor to be developed and issued by the Division of Purchase and Property in consultation with the Department of Agriculture. These guidelines shall encourage and promote to the maximum extent practicable the purchase of "Jersey Fresh," "Jersey Grown," other agricultural food products and commodities grown or raised in New Jersey, and "Made With Jersey Fresh" baked goods or other food products baked or made with "Jersey Fresh" products.

6. This act shall take effect immediately.

Approved January 4, 2011.

CHAPTER 112

AN ACT concerning the application, sale, and use of fertilizer, amending and supplementing P.L.1970, c.66, and supplementing Title 58 of the Revised Statutes.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

C.58:10A-61 Definitions relative to the application, sale, use of fertilizer.

1. As used in sections 1 through 9 of this act:

"Commercial farm" means the same as that term is defined pursuant to section 3 of P.L.1983, c.31 (C.4:1C-3).

"Department" means the Department of Environmental Protection.

"Fertilizer" means a fertilizer material, mixed fertilizer or any other substance containing one or more recognized plant nutrients, which is used for its plant nutrient content, designed for use or claimed to have value in promoting plant growth, and sold, offered for sale, or intended for sale; except that it shall not include unmanipulated animal or vegetable manures, agricultural liming materials, wood ashes, or processed sewage wastewater solids.

"Impervious surface" means any structure, surface, or improvement that reduces or prevents absorption of stormwater into land, and includes porous paving, paver blocks, gravel, crushed stone, decks, patios, elevated structures, and other similar structures, surfaces, or improvements.

"Local health agency" means the same as that term is defined pursuant to section 3 of P.L.1975, c.329 (C.26:3A2-3).

"Manipulated animal or vegetable manure" means manure that is ground, pelletized, mechanically dried, or otherwise treated to assist with the use of manure as a fertilizer.

"Person" means any individual, corporation, company, partnership, firm, association, political subdivision, or government entity.

"Professional fertilizer applicator" means any individual who applies fertilizer for hire, including any employee of a government entity who applies fertilizer within the scope of employment.

"Slow release nitrogen" means nitrogen in a form that is released over time that is not water soluble.

"Soil test" means a technical analysis of soil conducted by a laboratory authorized by the New Jersey Agricultural Experiment Station at Rutgers, the State University, pursuant to section 6 of this act.

"Turf" means land, including residential property and publicly owned land, that is planted in closely mowed, managed grass, except golf courses or land used in the operation of a commercial farm.

"Waterbody" means a surface water feature, such as a lake, river, stream, creek, pond, lagoon, bay or estuary.

"Water-soluble nitrogen" means nitrogen in a water-soluble form that does not have slow or controlled release properties.

C.58:10A-62 Actions prohibited when applying fertilizer.

2. a. No person shall:

(1) apply fertilizer to turf when a heavy rainfall, as shall be defined by the Office of the New Jersey State Climatologist at Rutgers, the State Uni-

versity, is occurring or predicted or when soils are saturated and a potential for fertilizer movement off-site exists;

(2) apply any fertilizer intended for use on turf to an impervious surface, and any fertilizer inadvertently applied to an impervious surface shall be swept or blown back onto the target surface or returned to either its original or another appropriate container for reuse; or

(3) apply fertilizer containing phosphorus or nitrogen to turf before March 1st or after November 15th in any calendar year, or at any time when the ground is frozen, except as provided otherwise in subsection b. of this section.

b. No professional fertilizer applicator shall apply fertilizer containing phosphorus or nitrogen to turf before March 1st or after December 1st in any calendar year, or at any time when the ground is frozen.

C.58:10A-63 Additional requirements.

3. a. In addition to the requirements set forth in section 2 of this act, no person, other than a professional fertilizer applicator, shall:

(1) apply fertilizer to turf in an amount that is more than an annual total of 3.2 pounds of total nitrogen per 1,000 square feet, except as provided otherwise in subsection b. of this section; or

(2) apply fertilizer containing: (a) nitrogen that is less than 20 percent slow release; (b) nitrogen to turf at a rate of more than 0.7 pounds of water-soluble nitrogen per 1,000 square feet per application; or (c) nitrogen to turf at a rate of more than 0.9 pounds of total nitrogen per 1,000 square feet per application, except as provided otherwise in subsection b. of this section.

b. No professional fertilizer applicator shall:

(1) apply fertilizer containing nitrogen to turf at a rate of (a) more than 0.7 pounds of water-soluble nitrogen per 1,000 square feet per application, and (b) more than one pound of total nitrogen per 1,000 square feet per application; or

(2) apply fertilizer to turf in an amount that is more than an annual total of 4.25 pounds of total nitrogen per 1,000 square feet.

c. (1) No professional fertilizer applicator may apply fertilizer to turf without first obtaining a fertilizer application certification, or training if applying fertilizer under the direct supervision of a certified professional fertilizer applicator, pursuant to section 4 of this act.

(2) No person, other than a certified professional fertilizer applicator or a person trained and under the direct supervision of a certified professional fertilizer applicator, may apply fertilizer to a golf course.

d. Except as provided otherwise in subsection e. of this section, no person may apply fertilizer containing phosphorus unless the person:

(1) determines that the fertilizer is necessary for the specific soils and target vegetation pursuant to a soil test performed no more than three years before the application, and pursuant to the associated annual fertilizer recommendation issued by the New Jersey Agricultural Experiment Station at Rutgers, the State University;

(2) is establishing vegetation for the first time, such as after land disturbance, provided the application is in accordance with the standards and requirements established under the "Soil Erosion and Sediment Control Act," P.L.1975, c.251 (C.4:24-39 et seq.), and the rules and regulations adopted pursuant thereto;

(3) is reestablishing or repairing a turf area; or

(4) is delivering liquid or granular fertilizer under the soil surface directly to the feeder roots.

e. A person may apply fertilizer containing phosphorus to turf if the fertilizer consists of manipulated animal or vegetable manure, includes no more than 0.25 pounds of phosphorus per 1,000 square feet when applied pursuant to the instructions on the container, and otherwise complies with the provisions of this act.

f. (1) Except as provided otherwise in paragraph (3) of this subsection, no person shall apply fertilizer containing phosphorus or nitrogen to turf within 25 feet of any waterbody, except that where a drop spreader, rotary spreader with a deflector or targeted spray liquid is used for fertilizer application, the buffer may be reduced to 10 feet.

(2) The establishment of buffers for fertilizer application pursuant to paragraph (1) of this subsection shall not preclude the establishment or applicability of, or compliance with, any other environmental standards established pursuant to any other State or federal law, rule or regulation.

(3) A professional fertilizer applicator may apply a rescue treatment to turf in a buffer area established pursuant to paragraph (1) of this subsection.

As used in this paragraph, "rescue treatment" means a fertilizer application, consistent with the nitrogen content applied by a professional fertilizer applicator pursuant to paragraph (1) of subsection b. of this section, applied no more than once a year to an area between 10 and 25 feet of a waterbody.

g. No person may apply fertilizer to turf exceeding the nitrogen standards set forth in subsections a. and b. of this section, unless the person is establishing vegetation for the first time, such as after land disturbance, provided the fertilizer application is in accordance with the standards and

requirements established under the "Soil Erosion and Sediment Control Act," P.L.1975, c.251 (C.4:24-39 et seq.), and the rules and regulations adopted pursuant thereto.

C.58:10A-64 Fertilizer application certification program.

4. a. The New Jersey Agricultural Experiment Station at Rutgers, the State University, shall, in consultation with the Department of Environmental Protection, establish a fertilizer application certification program. The certification program shall provide professional fertilizer applicators with training and education in at least the following subject areas:

(1) the proper use and calibration of fertilizer application equipment;

(2) the hazards involved in, and the environmental impact of, applying fertilizer, including nutrient pollution to the State's waterbodies;

(3) all applicable State and federal laws, rules and regulations;

(4) the correct interpretation of fertilizer labeling information; and

(5) the best management practices developed by the New Jersey Agricultural Experiment Station for nutrient management in turf.

b. In establishing a fertilizer application certification program, the New Jersey Agricultural Experiment Station may:

(1) charge reasonable fees, including, but not limited to, an annual recertification fee, to cover costs associated with the certification program;

(2) require continuing education or training for certified professional fertilizer applicators;

(3) designate one or more qualified organizations to train, certify, and recertify professional fertilizer applicators and provide that a designated organization may charge fees to cover reasonable costs associated with the certification training and education; and

(4) recognize the training program of any person employing professional fertilizer applicators if it meets the certification and recertification training and education standards established by the program pursuant to this section.

c. The New Jersey Agricultural Experiment Station shall conduct examinations to certify that an applicant possesses sufficient knowledge of the State and federal laws, rules and regulations, standards and requirements applicable to the use and application of fertilizer. No person may take the certification examination until the New Jersey Agricultural Experiment Station determines that the applicant has obtained the education and training established by the fertilizer application certification program pursuant to this section.

d. An application for certification shall be made in a manner and on such forms as may be prescribed by the New Jersey Agricultural Experi-

ment Station. The filing of an application shall be accompanied by an application fee that shall cover the costs of processing the application and developing and conducting the examination.

e. The New Jersey Agricultural Experiment Station shall, in consultation with the department, establish a training program for those professional fertilizer applicators who will apply fertilizer only under the direct supervision of a certified professional fertilizer applicator. The New Jersey Agricultural Experiment Station shall establish minimum standards and criteria for a training program conducted pursuant to this subsection. In establishing the training program, the New Jersey Agricultural Experiment Station may:

(1) charge reasonable fees to cover costs associated with the training program;

(2) require continuing education or training for professional fertilizer applicators who apply fertilizer only under the direct supervision of a certified professional fertilizer applicator;

(3) designate one or more qualified organizations to train professional fertilizer applicators who will apply fertilizer only under the direct supervision of a professional fertilizer applicator certified pursuant to this section and provide that a designated organization may charge fees to cover reasonable costs associated with the training process; and

(4) recognize the training program of any person employing professional fertilizer applicators if it meets the training requirements established by the New Jersey Agricultural Experiment Station pursuant to this subsection.

f. The New Jersey Agricultural Experiment Station shall publish and maintain a list of all certified professional fertilizer applicators and make the list available on its Internet website.

C.58:10A-65 Violations, penalties.

5. a. Any professional fertilizer applicator who violates this act, or any rule or regulation adopted pursuant thereto, shall be subject to a civil penalty of $500 for the first offense and up to $1,000 for the second and each subsequent offense, to be collected in a civil action by a summary proceeding under the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). If the violation is of a continuing nature, each day during which it continues shall constitute an additional, separate and distinct offense. The Superior Court and the municipal court shall have jurisdiction to enforce the provisions of the "Penalty Enforcement Law of 1999" pursuant to this subsection.

b. Any person, other than a professional fertilizer applicator or person who sells fertilizer at retail, who violates this act, or any rule or regulation

adopted pursuant thereto, may be subject to a penalty, as established by municipal ordinance, to be collected in a civil action by a summary proceeding under the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). The municipal court shall have jurisdiction to enforce the provisions of the "Penalty Enforcement Law of 1999" in connection with this subsection.

c. (1) This act, and the rules and regulations adopted pursuant thereto, may be enforced by any municipality, county, local soil conservation district or local health agency.

(2) A local soil conservation district may institute a civil action for injunctive relief in Superior Court to enforce this act and to prohibit and prevent a violation of this act, or any rule or regulation adopted pursuant thereto, and the court may proceed in the action in a summary manner.

C.58:10A-66 Program of public education.

6. a. The New Jersey Agricultural Experiment Station shall, in consultation with the Department of Environmental Protection, develop a program of public education which shall include but need not be limited to the dissemination of information regarding nutrient pollution, best management practices for fertilizer use, soil testing, proper interpretation of fertilizer label instructions, and the proper use and calibration of fertilizer application equipment. The New Jersey Agricultural Experiment Station shall provide informational posters to retailers for display, and make any information and literature developed pursuant to this subsection available online on its Internet website.

b. The New Jersey Agricultural Experiment Station shall identify laboratories which participate in the North American Proficiency Testing Program of the Soil Science Society of America, follow the recommended soil testing procedures for the northeastern United States, are authorized to conduct soil tests to determine the level of nutrients required for turf, and provide a final report to the requestor with the results of the soil test that is consistent with the best management practices established by the New Jersey Agricultural Experiment Station.

C.58:10A-67 Preemption of existing ordinances, resolutions.

7. The provisions of this act, and the rules and regulations adopted pursuant thereto, shall preempt any ordinance or resolution of a municipality, county or local health agency concerning the application of fertilizer to turf, except as authorized pursuant to subsection b. of section 5 of this act.

C.58:10A-68 Inapplicability to commercial farms.

8. Sections 1 through 9 of this act shall not apply to the application of fertilizer to commercial farms.

C.58:10A-69 Rules, regulations.

9. The Department of Environmental Protection, in consultation with the Department of Agriculture, may adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations to implement sections 1 through 8 of this act.

C.4:9-15.8a Requirements for specialty fertilizer; definitions.

10. Any specialty fertilizer labeled for use on turf and intended for use by consumers shall:

a. Contain no more than 0.7 pounds of water-soluble nitrogen and no more than 0.9 pounds of total nitrogen at least 20 percent of which shall consist of slow release nitrogen per 1,000 square feet when applied pursuant to the instructions on the container; and

b. Contain no phosphorus, except when specifically labeled for the following purposes:

(1) providing nutrients to specific soils and target vegetation as determined to be necessary pursuant to a soil test conducted by a laboratory identified pursuant to subsection b. of section 6 of P.L.2010, c.112 (C.58:10A-66) and performed no more than three years before the application, and pursuant to the associated annual fertilizer recommendation issued by the New Jersey Agricultural Experiment Station at Rutgers, the State University;

(2) establishing vegetation for the first time, such as after land disturbance, provided the application is in accordance with the standards and requirements established under the "Soil Erosion and Sediment Control Act," P.L.1975, c.251 (C.4:24-39 et seq.) and the rules and regulations adopted pursuant thereto;

(3) reestablishing or repairing a turf area; or

(4) delivering liquid or granular fertilizer under the soil surface, directly to the feeder roots.

c. Nothing in this section shall apply to fertilizer derived from processed sewage wastewater solids or manipulated animal or vegetable manure.

d. As used in this section:

"Consumer" means an individual who buys fertilizer for personal or household use and not for business purposes.

"Manipulated animal or vegetable manure" means manure that is ground, pelletized, mechanically dried, or otherwise treated to assist with the use of manure as a fertilizer.

"Slow release nitrogen" means nitrogen in a form that is released over time that is not water soluble.

"Turf" means land, including residential property, that is planted in closely mowed, managed grass, except land used in the operation of a commercial farm as that term is defined pursuant to section 3 of P.L.1983, c.31 (C.4:1C-3).

"Water-soluble nitrogen" means nitrogen in a water-soluble form that does not have slow or controlled release properties.

C.4:9-15.13a Prohibited sales of fertilizer; definitions.

11. a. No person may sell at retail specialty fertilizer which contains more than 0.7 pounds of water-soluble nitrogen or more than 0.9 pounds of total nitrogen per 1,000 square feet at least 20 percent of which shall consist of slow release nitrogen when applied pursuant to the instructions on the container and is intended for use on turf by consumers.

b. No person may sell at retail specialty fertilizer which contains phosphorus and is intended for use on turf by consumers unless the intended use of the fertilizer is:

(1) for application to specific soils and turf as determined to be necessary pursuant to a soil test conducted by a laboratory identified pursuant to subsection b. of section 6 of P.L.2010, c.112 (C.58:10A-66) and performed no more than three years before the application, and pursuant to the associated annual fertilizer recommendation issued by the New Jersey Agricultural Experiment Station at Rutgers, the State University;

(2) for the establishment of turf for the first time, such as after land disturbance, provided the application is in accordance with the standards and requirements established under the "Soil Erosion and Sediment Control Act," P.L.1975, c.251 (C.4:24-39 et seq.), and the rules and regulations adopted pursuant thereto; or

(3) for the reestablishment or repair of a turf area.

c. Nothing in this section shall apply to fertilizers derived from processed sewage wastewater solids or manipulated animal or vegetable manure.

d. As used in this section:

"Consumer" means a natural person who buys fertilizer for personal or household use and not for business purposes.

"Manipulated animal or vegetable manure" means manure that is ground, pelletized, mechanically dried, or otherwise treated to assist with the use of manure as a fertilizer.

"Slow release nitrogen" means nitrogen in a form that is released over time that is not water soluble.

"Turf" means land, including residential property, that is planted in closely mowed, managed grass, except land used in the operation of a commercial farm as that term is defined pursuant to section 3 of P.L.1983, c.31 (C.4:1C-3).

"Water-soluble nitrogen" means nitrogen in a water-soluble form that does not have slow or controlled release properties.

12. Section 13 of P.L.1970, c.66 (C.4:9-15.13) is amended to read as follows:

C.4:9-15.13 Labeling of specialty fertilizer.

13. a. A specialty fertilizer must be labeled as provided in section 10 of P.L.1970, c.66 (C.4:9-15.10), and additional items may be required by regulation.

b. The container for a specialty fertilizer intended for use on turf must include the following information in a readable and conspicuous form and shall be considered the label:

Net Weight
Brand Name
Grade
Guaranteed Analysis:
Total Nitrogen (N) .....%
..... % Ammoniacal Nitrogen
.....% Nitrate Nitrogen
.....% Urea Nitrogen
..... % Other Water Soluble Nitrogen
..... % Water Insoluble Nitrogen
Available Phosphate (P2O5) ..... %
Soluble Potash (K2O) ..... %
Additional Plant Nutrients as prescribed by regulation.
Name and address of the licensee.

c. (1) The container of a specialty fertilizer intended for use on turf that does not contain pesticides regulated pursuant to the "Federal Insecticide,

Fungicide, and Rodenticide Act," 7 U.S.C.s.136 et seq., shall also contain the following summary of best management practices for nutrient management in turf in a readable and conspicuous form:

"Do not apply near water, storm drains or drainage ditches. Do not apply if heavy rain is expected. Apply this product only to your lawn, and sweep any product that lands on the driveway, sidewalk or street back onto your lawn."

(2) A container of a specialty fertilizer intended for use on turf that also contains a pesticide regulated pursuant to the "Federal Insecticide, Fungicide, and Rodenticide Act," 7 U.S.C.s.136 et seq., shall include the environmental hazard statement recommended by the United States Environmental Protection Agency for that product.

d. As used in this section, "turf" means land, including residential property, that is planted in closely mowed, managed grass, except land used in the operation of a commercial farm as that term is defined pursuant to section 3 of P.L.1983, c.31 (C.4:1C-3).

13. Sections 1, 2, and 9 of this act shall take effect immediately, section 11 shall take effect two years after the date of enactment of this act, and the remainder of this act shall take effect one year after the date of enactment, but the Commissioner of Environmental Protection and the New Jersey Agricultural Experiment Station may take such anticipatory action in advance thereof as shall be necessary for the implementation of this act.

Approved January 5, 2011.

CHAPTER 113

AN ACT concerning soil restoration measures and amending and supplementing P.L.1975, c.251.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Section 3 of P.L.1975, c.251 (C.4:24-41) is amended to read as follows:

C.4:24-41 Definitions.

3. For the purposes of this act, unless the context clearly indicates a different meaning:

a. "Application for development" means a proposed subdivision of land, site plan, conditional use zoning variance, planned unit development or construction permit.

b. "Certification" means (1) a written endorsement of a plan for soil erosion and sediment control by the local Soil Conservation District which indicates that the plan meets the standards promulgated by the State Soil Conservation Committee pursuant to this act, (2) that the time allotted in section 7 of this act has expired without action by the district or (3) a written endorsement of a plan filed by the State Department of Transportation with the district.

c. "District" means a Soil Conservation District organized pursuant to chapter 24 of Title 4 of the Revised Statutes.

d. "Disturbance" means any activity involving the clearing, excavating, storing, grading, filling or transporting of soil or any other activity which causes soil to be exposed to the danger of erosion, or compaction of soil which degrades soil so as to make it less conducive to vegetative stabilization.

e. "Erosion" means the detachment and movement of soil or rock fragments by water, wind, ice and gravity.

f. "Plan" means a scheme which indicates land treatment measures, including a schedule of the timing for their installation, to minimize soil erosion and sedimentation, and which specifies the soil restoration measures, consistent with the standards established by the committee pursuant to section 2 of P.L.2010, c.113 (C.4:24-42.1).

g. "Project" means any disturbance of more than 5,000 square feet of the surface area of land (1) for the accommodation of construction for which the State Uniform Construction Code would require a construction permit, except that the construction of a single-family dwelling unit shall not be deemed a "project" under this act unless such unit is part of a proposed subdivision, site plan, conditional use, zoning variance, planned development or construction permit application involving two or more such single-family dwelling units, (2) for the demolition of one or more structures, (3) for the construction of a parking lot, (4) for the construction of a public facility, (5) for the operation of any mining or quarrying activity, or (6) for the clearing or grading of any land for other than agricultural or horticultural purposes.

h. "Sediment" means solid material, mineral or organic, that is in suspension, is being transported, or has been moved from its site of origin by air, water or gravity as a product of erosion.

i. "Soil" means all unconsolidated mineral and organic material of any origin.

j. "Standards" means the standards promulgated by the committee pursuant to this act.

k. "Committee" means the State Soil Conservation Committee in the Department of Agriculture established pursuant to R.S.4:24-3.

l. "Public facility" means any building; pipeline; highway; electricity, telephone or other transmission line; or any other structure to be constructed by a public utility, municipality, county or the State or any agency or instrumentality thereof.

m. "Soil restoration measures" means those measures taken to ensure, to the maximum extent possible, cost-effective restoration of the optimal physical, chemical, and biological functions for specific soil types and the intended land use.

C.4:24-42.1 Adoption of standards.

2. The committee shall, within one year after the date of enactment of P.L.2010, c.113 (C.4:24-42.1 et al.), and in consultation with the New Jersey Agricultural Experiment Station at Rutgers, the State University, the Secretary of Agriculture and the Commissioner of Environmental Protection, adopt standards pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), which shall modify the existing soil erosion and sediment control standards to include soil restoration measures.

3. This act shall take effect on the first day of the 13th month after the date of enactment.

Approved January 5, 2011.

CHAPTER 114

AN ACT concerning the study and repair of certain stormwater basins in the Barnegat Bay watershed, and supplementing P.L.1984, c.73 (C.27:1B-1 et seq.) and P.L.1948, c.454 (C.27:23-1 et seq.).

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. The Department of Transportation, in consultation with the Department of the Treasury, shall conduct a study of all stormwater basins

owned by the State, the New Jersey Transit Corporation, or the New Jersey Turnpike Authority in the Barnegat Bay watershed.

The study shall identify those stormwater basins owned by the State, the New Jersey Transit Corporation, or the New Jersey Turnpike Authority in the Barnegat Bay watershed that are malfunctioning and determine the order in which the stormwater basins should be repaired based on the need for maintenance or restoration. The study shall also estimate the cost to repair each stormwater basin individually.

2. Within one year of the effective date of this act, the Department of Transportation shall prepare and submit a final report of the study conducted pursuant to section 1 of this act, including the department's findings and any recommendations, to the Governor, to the Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), and to the chairperson and members of the Assembly Environment and Solid Waste Committee and the Senate Environment and Energy Committee, or their successor committees. Copies of this report shall also be provided to the public upon request and free of charge, and the report shall be posted on the Internet website of the Department of Transportation.

C.27:1B-22.4 Inclusion of projects in "Annual Transportation Capital Program."

3. The Department of Transportation shall include, annually as part of its "Annual Transportation Capital Program" submitted pursuant to section 22 of P.L.1984, c.73 (C.27:1B-22), projects for the repair of malfunctioning stormwater basins owned by the State or the New Jersey Transit Corporation in the Barnegat Bay watershed based upon the priority order identified in the study prepared pursuant to section 1 of P.L.2010, c.114.

C.27:23-3.3 Inclusion of projects in Capital Project and Investment Plan.

4. The New Jersey Turnpike Authority shall include, annually as part of its Capital Project and Investment Plan submitted pursuant to subsection c. of section 1 of P.L.1970, c.184 (C.27:23-3.2), projects for the repair of malfunctioning authority-owned stormwater basins in the Barnegat Bay watershed based upon the priority order identified in the study prepared pursuant to section 1 of P.L.2010, c.114.

5. This act shall take effect immediately, and sections 1 and 2 shall expire on the 30th day after the Department of Transportation submits its report as prescribed in section 2 of this act.

Approved January 5, 2011.

CHAPTER 115

AN ACT establishing alternative methods of casino licensure and supplementing P.L.1977, c.110 (C.5:12-1 et seq.).

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

C.5:12-80.1 Pilot program for issuance of additional types of casino licenses.

1. a. Notwithstanding the provisions of P.L.1977, c.110 (C.5:12-1 et seq.) to the contrary, the Casino Control Commission shall establish a pilot program under which it shall issue two additional types of casino licenses: a small-scale casino facility license and a staged casino facility license. The commission shall not issue a total of more than two licenses under the pilot program and at least one of the licenses issued shall be a staged casino facility license. Each small-scale casino facility and each staged casino facility licensed under this section shall be new construction, located within the Boardwalk casino zone, and shall originate on the beach block touching the Boardwalk, but may extend across the street.

b. An applicant may apply to the commission for a casino license to operate a small-scale casino facility consisting of not more than 24,000 square feet of casino space and not less than 200 qualified sleeping units, with additional casino space as may be approved by the commission in connection with the development of special amenities pursuant to section 2 of P.L.2010, c.115 (C.5:12-80.2).

c. An applicant may apply to the commission for a casino license to operate a staged casino facility which shall initially consist of not more than 34,000 square feet of casino space and not less than 200 qualified sleeping units, on the condition that within two years of the date of licensure the licensee shall begin an expansion of the facility to include not less than a total of 500 qualified sleeping units which shall be completed within five years of initial licensure. A staged casino facility licensee shall be deemed to have begun the expansion required by this subsection if the licensee has obtained all necessary permits, including a permit issued pursuant to the "Coastal Area Facility Review Act," P.L.1973, c.185 (C.13:19-1 et seq.), that are necessary for the commencement of site work and the construction of footings and foundations, and has begun site work, including grading, footing and foundation work. A licensee shall be deemed to have completed the expansion of the facility upon receipt of a temporary or perma-

nent certificate of occupancy for the qualified sleeping units. Upon the completion of 75% of the expansion of the facility, as certified by the project architect or engineer, such level of completion shall be deemed an addition of those sleeping units for purposes of calculating such licensee's maximum allowable casino space under section 83 of P.L.1977, c.110 (C.5:12-83), provided that, upon the completion of the expansion, for every 100 qualified sleeping units above the initial 200, the initial maximum of 34,000 square feet of casino space may be enlarged by 10,000 square feet, for a maximum of 54,000 square feet of casino space, except that any enlargement of the initial casino space undertaken during the period of staged casino licensure in connection with the development of special amenities as provided under section 2 of P.L.2010, c.115 (C.5:12-80.2) shall be counted toward the calculation of the maximum 54,000 square feet of casino space. Upon the completion of all of the additional qualified sleeping units the commission shall convert the licensee's license from a staged casino facility license to a standard casino license issued under P.L.1977, c.110 (C.5:12-1 et seq.).

d. An applicant for a small-scale casino facility license or a staged casino facility license shall submit a notice of the intent to proceed to the commission on such forms as the commission may provide which shall include a statement of intention to apply for either a small-scale casino facility license or a staged casino facility license, a description of the general elements of the project, a description of the financing and source of funds for the project, and a commitment to a minimum investment threshold that includes acquisition costs and hard and soft development costs. In addition, the applicant shall provide a bond, letter of credit or cash deposit in the amount of $1,000,000 for the benefit of the State, which shall be forfeited upon the failure to commence or complete a project within the applicable time frames or refunded upon timely completion of the project, and upon the issuance of a permit pursuant to the "Coastal Area Facility Review Act," P.L.1973, c.185 (C.13:19-1 et seq.) and the commencement of site work, including grading, footing and foundation work, a cash deposit of $1,000,000 to the State Treasurer, which shall be a non-refundable fee to be accessed by the City of Atlantic City and used to fund infrastructure improvements within the City of Atlantic City, provided that such improvements are related to the applicant's project.

e. The commission shall require the holder of a small-scale casino facility license or a staged casino facility license to deposit annually an amount equal to 5% of gross revenues into a special non-lapsing fund to be administered by the State Treasurer. Funds deposited by the holder of a

staged casino facility license shall be made available to the licensee for the purpose of expanding the facility as provided by this section. Funds deposited by the holder of a small-scale casino facility license shall be made available to the licensee for the purpose of expanding the number of qualified sleeping units at the facility. Funds that are not used for these purposes, within five years of initial licensure, shall be expended for the purpose of funding infrastructure improvements in the City of Atlantic City or made available for low interest loans for capital expenditures for existing casinos, including small-scale casino facilities and staged casino facilities, provided that neither the city, nor the existing casinos collectively, shall be eligible to receive more than 50% of the amount in the fund and provided that all funds received by the city or existing casinos shall be used for capital improvements in the Boardwalk casino zone as described in subsection a. of this section. In addition, if a staged casino facility licensee fails to expand the total number of sleeping units at the facility to at least 500 rooms within five years of initial licensure: the licensee's casino space shall be reduced by 10,000 square feet until the number of sleeping units reaches 500; and the amount the licensee is required to deposit annually into the special nonlapsing fund pursuant to this section shall be increased to 10% until the end of a period of five years or until the number of sleeping units reaches 500, whichever occurs first.

f. No more than two facilities shall be licensed pursuant to this section at the same time and at least one of the facilities shall be a staged casino facility. If at any time the commission is in receipt of more than two applications for licensure, the commission shall rank the applications according to criteria developed by the commission, including, without limitation, job preservation, job creation, immediacy of project development and neighborhood benefit, but shall give preference to applicants seeking licensure to operate a staged casino facility as provided herein.

g. The holder of a casino license issued pursuant to the provisions of P.L.1977, c.110 (C.5:12-1 et seq.) shall be eligible for licensure under this section to operate a small-scale casino on the behalf of a small-scale casino licensee.

h. The provisions of P.L.1977, c.110 (C.5:12-1 et seq.) shall apply to licensure under this section except to the extent that those provisions may be inconsistent with this section.

i. The commission shall require the holder of a license to establish a small-scale casino facility or a staged casino facility to establish and maintain an approved hotel that is in all respects a superior, first class facility of

exceptional quality which will help restore Atlantic City as a resort, tourist and convention destination.

j. The commission shall also require the holder of a license to establish a small-scale casino facility or a staged casino facility to establish and maintain as part of its premises at least one first class restaurant and at least one entertainment venue. The type and quality of a restaurant or entertainment venue established by a licensee pursuant to this subsection shall be subject to the approval of the commission.

C.5:12-80.2 Increase of casino space by small-scale, staged casino facility; special amenities.

2. a. Notwithstanding the provisions of P.L.1977, c.110 (C.5:12-1 et seq.) to the contrary, a small-scale casino facility and a staged casino facility licensed pursuant to section 1 of P.L.2010, c.115 (C.5:12-80.1), may be permitted to increase its initial casino space by 10,000 square feet if the facility develops 40,000 square feet of special amenities at the casino facility, except that at no time during the period of small-scale casino licensure or staged casino licensure, as the case may be, shall the total casino space exceed 54,000 square feet, as herein provided.

b. As used in this section, "special amenities" may include, but may not be limited to, special and unique meeting and convention space, museum, exhibit space, sports and entertainment venues, spas, treatment facilities, retail space, and themed retail, dining and entertainment venues. Special amenities shall not include casino space, facilities directly related to the function of casino space, standard restaurant or retail space, or standard meeting and convention space.

c. Any small-scale casino facility or staged casino facility that is granted additional square footage of casino space in connection with the development of special amenities pursuant to this section shall be limited to a maximum of 54,000 square feet of total casino space during the period of small-scale casino licensure or staged casino licensure, as the case may be. With respect to the casino square footage of a staged casino facility that develops special amenities during the period of staged casino licensure, the maximum 54,000 square feet of total casino space established herein shall apply during the period of staged casino licensure, and shall be calculated toward the maximum 60,000 square feet of casino space limit established under section 83 of P.L.1977, c.110 (C.5:12-83) upon conversion of the staged casino facility license to a standard casino license as provided under subsection c. of section 1 of P.L.2010, c.115 (C.5:12-80.1).

d. The provisions of this section shall not be interpreted to diminish or alter the requirements imposed under section 1 of P.L.2010, c.115 (C.5:12-80.1) for the construction of the specified number of qualified sleeping units by a small-scale casino facility licensee or a staged casino facility licensee.

e. The commission shall develop guidelines for small-scale casino licensees and staged casino licensees to follow concerning the types of special amenities that are qualified for the purposes of calculating the additional casino space provided for in this section.

3. This act shall take effect immediately.

Approved January 5, 2011.

CHAPTER 116

AN ACT concerning licensed public adjusters and amending P.L.1993, c.66.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Section 9 of P.L.1993, c.66 (C.17:22B-9) is amended to read as follows:

C.17:22B-9 License fees.

9. For applications made during the first year of operation of this act, there shall be paid to the commissioner by each individual applicant and by each proposed sublicensee a fee of $300 for an initial license term of four years. Thereafter, the commissioner may adjust the amount of the license fee to produce revenues sufficient to support the regulatory obligations imposed on the department by this act. The term of all public adjuster licenses shall be for a period of two years. The commissioner shall refund to the applicant or proposed sublicensee the fee paid if the application is denied.

2. Section 10 of P.L.1993, c.66 (C.17:22B-10) is amended to read as follows:

C.17:22B-10 License renewal.

10. Every adjuster's license issued pursuant to this act may be renewed for a two-year period upon the filing of an application in conformity with section 6 of this act, which shall include proof of completion of continuing education requirements as established by this section.

a. The commissioner shall require every individual licensed as a public adjuster, and each sublicensee of a licensed adjuster that is a corporation, firm or association, as a condition of biennial license renewal pursuant to this section, to complete not less than 15 hours of continuing education. Each hour of instruction shall be equivalent to one credit.

b. The commissioner shall:

(1) establish standards for the continuing education of public adjusters, including the subject matter and content of courses of study;

(2) approve educational programs offering continuing education credits and the qualification of instructors; and

(3) approve other equivalent educational programs and establish procedures for the issuance of credit upon satisfactory proof of the completion of these programs.

c. The commissioner may, in his discretion, waive requirements for continuing education on an individual basis for reasons of hardship such as illness or disability, retirement of the license, or other good cause.

d. The commissioner may, in his discretion, waive the continuing education requirements set forth in subsection a. of this section for a public adjuster who is a non-resident licensee if the commissioner deems that such licensee has satisfactorily completed continuing education requirements for licensed public adjusters in the state in which he resides that are equivalent to New Jersey continuing education requirements.

3. Section 13 of P.L.1993, c.66 (C.17:22B-13) is amended to read as follows:

C.17:22B-13 Prohibited practices.

13. No individual, firm, association or corporation licensed under this act shall:

a. solicit the adjustment of a loss or damage occurring in this State from an insured, whether by personal interview, by telephone, or by any other method, between the hours of six p.m. and eight a.m. during the 24 hours after the loss has occurred;

b. enter into any agreement, oral or written, with an insured to negotiate or settle claims for loss or damage occurring in this State between the hours of six p.m. and eight a.m. during the 24 hours after the loss has occurred;

c. have any right to compensation from any insured for or on account of services rendered to an insured as a public adjuster unless the right to compensation is based upon a written memorandum, signed by the party to be charged and by the adjuster, and specifying or clearly defining the ser-

vices to be rendered and the amount or extent of the compensation on a form and with such language as the commissioner may prescribe;

d. induce cancellation of a duly executed written memorandum between an insured and a public adjuster;

e. make any misrepresentation of facts or advise any person on questions of law in connection with the transaction of business as an adjuster; or

f. receive, accept or hold any moneys towards the settlement of a claim for loss or damage on behalf of an insured unless the public adjuster deposits the moneys in an interest bearing escrow account in a banking institution or savings and loan association in this State insured by an agency of the federal government. Any funds held in escrow together with interest accumulated thereon shall be the property of the insured until disbursement thereof pursuant to a written memorandum, signed by the insured and by the adjuster, specifying or clearly defining the services rendered and the amount of any compensation to be paid therefrom. In the event of the insolvency or bankruptcy of a public adjuster, the claim of an insured for any settlement moneys received, accepted or held by the adjuster shall constitute a statutory trust.

4. This act shall take effect on the 180th day next following enactment, and shall apply to all license renewals submitted on or after that date.

Approved January 5, 2011.

CHAPTER 117

AN ACT establishing the New Jersey Aphasia Study Commission.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. The Legislature finds and declares that:

a. Aphasia is a disorder of the brain that occurs, most commonly, after a stroke or traumatic brain injury and affects a person's ability to communicate. A person with aphasia typically has difficulty speaking and, sometimes, difficulty with reading, writing, and understanding what other people are saying; however, the condition does not affect a person's intellect;

b. Although the condition is most common among older people, aphasia can be acquired by people of all ages following severe head and brain trauma;

c. The type and severity of language dysfunction depends on the precise location and extent of damaged brain tissue. Generally, there are four types of aphasia: (1) expressive aphasia involves difficulty in conveying thoughts through speech or writing; (2) receptive aphasia involves difficulty understanding spoken or written language; (3) anomic or amnesia aphasia, the least severe form of aphasia, involves difficulty in using the correct names for particular objects, people, places or events; and (4) global aphasia, the most severe form of aphasia, involves loss of almost all language function, both comprehensive and expression;

d. There is no one treatment proven to be effective for all types of aphasia. Persons with aphasia usually experience improvement over time, aided by speech therapy, rehabilitation services, and counseling; however, many persons with aphasia are prone to depression, hopelessness, and isolation, avoiding contact with others in order to pass on social situations that may lead to mutual frustration;

e. It is estimated that one million people in the United States have aphasia, more than the number of people suffering from Parkinson's disease, muscular dystrophy, multiple sclerosis, or cerebral palsy; and

f. It is, therefore, in the public interest for the State to establish a commission to study the prevalence and impact of aphasia on residents of the State, and to review model support programs for persons with aphasia and their families.

2. a. There is established the New Jersey Aphasia Study Commission in the Department of Health and Senior Services.

The purpose of the commission shall be to:

(1) establish a mechanism in order to ascertain the prevalence of aphasia in New Jersey, and the unmet needs of persons with aphasia and those of their families;

(2) study model aphasia support programs, such as, the Kean University Institute for Adults Living with Communication Disabilities and the Adler Aphasia Center; and

(3) provide recommendations for additional support programs and resources to meet the unmet needs of persons with aphasia and their families.

b. The commission shall consist of 11 members as follows:

(1) the Commissioners of Health and Senior Services, Banking and Insurance, and Human Services, or their designees, who shall serve ex officio; and

(2) eight public members who shall be appointed as follows: two persons appointed by the Senate President, one of whom is a person with aphasia and one of whom provides services to persons with aphasia; two

persons appointed by the Speaker of the General Assembly, one of whom is a person with aphasia and one of whom provides services to persons with aphasia; and four persons appointed by the Governor, one of whom is a person with aphasia, one of whom provides services to persons with aphasia, and two of whom are members of the public with demonstrated expertise in issues relating to the work of the commission.

Vacancies in the membership of the commission shall be filled in the same manner provided for the original appointments.

c. The commission shall organize within 120 days following the appointment of a majority of its members and shall select a chairperson and vice-chairperson from among the members. The chairperson shall appoint a secretary who need not be a member of the commission.

d. The public members shall serve without compensation, but shall be reimbursed for necessary expenses incurred in the performance of their duties and within the limits of funds available to the commission.

e. The commission shall be entitled to call to its assistance and avail itself of the services of the employees of any State, county or municipal department, board, bureau, commission or agency as it may require and as may be available to it for its purposes.

f. The commission may meet and hold hearings as it deems appropriate.

g. The Department of Health and Senior Services shall provide staff support to the commission.

3. The commission shall report its findings and recommendations to the Governor, and to the Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), along with any legislative bills that it desires to recommend for adoption by the Legislature, no later than 12 months after the initial meeting of the commission.

4. This act shall take effect immediately and shall expire upon the issuance of the commission report.

Approved January 5, 2011.

CHAPTER 118

AN ACT concerning notification of the exhaustion of unemployment benefits and supplementing chapter 21 of Title 43 of the Revised Statutes.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

C.43:21-4.3 Pre-notification of exhaustion of UI benefits.

1. The Commissioner of Labor and Workforce Development shall give written notification to any individual receiving unemployment compensation pursuant to R.S.43:21-1 et seq., including any State or federal extension of the unemployment compensation, of the date of the final exhaustion of all unemployment compensation for the individual, not less than four weeks prior to that date. The written notification shall include a referral for services from the Department of Human Services and any other appropriate State agency to counsel and assist the individual to obtain any resources which may be available for the individual and dependents of the individual, including assistance regarding housing, child care, food, mental health, addiction services, and health care coverage. The notification shall be distributed in a manner deemed by the commissioner to be the most practicable and cost effective, but that will ensure timely personal notification of each person.

2. This act shall take effect immediately.

Approved January 5, 2011.

CHAPTER 119

AN ACT concerning construction liens, and amending, supplementing and repealing various sections of P.L.1993, c.318.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Section 2 of P.L.1993, c.318 (C.2A:44A-2) is amended to read as follows:

C.2A:44A-2 Definitions relative to construction liens.

2. As used in this act:

"Claimant" means a person having the right to file a lien claim on real property pursuant to this act.

"Community association" means a condominium association, a homeowners' association, a cooperative association, or any other entity created to administer or manage the common elements and facilities of a real property development that, directly or through an authorized agent, enters into a contract for improvement of the real property.

"Contract" means any agreement, or amendment thereto, in writing, signed by the party against whom the lien claim is asserted and evidencing the respective responsibilities of the contracting parties, including, but not limited to, price or other consideration to be paid, and a description of the benefit or improvement to the real property subject to a lien. In the case of a supplier, "contract" shall include a delivery or order slip referring to the site or project to which materials have been delivered or where they were used and signed by the party against whom the lien claim is asserted or that party's authorized agent. As referenced herein: the phrase "party against whom the lien claim is asserted" means the party in direct privity of contract with the party asserting the lien claim; and the term "signed" means a writing that bears a mark or symbol intended to authenticate it.

"Contract price" means the amount specified in a contract for the provision of work, services, material or equipment.

"Contractor" means any person in direct privity of contract with the owner of real property, or with a community association in accordance with section 3 of P.L.1993, c.318 (C.2A:44A-3), for improvements to the real property. A construction manager who enters into a single contract with an owner or a community association for the performance of all construction work within the scope of a construction manager's contract, a construction manager who enters into a subcontract, or a construction manager who is designated as an owner's or community association's agent without entering into a subcontract is also a "contractor" for purposes of this act. A licensed architect, engineer or land surveyor or certified landscape architect who is not a salaried employee of the contractor, or the owner or community association, performing professional services related to the improvement of property in direct contract with the property owner shall be considered a "contractor" for the purposes of this act.

"County clerk" means the clerk of the county in which real property to be improved is situated.

"Day" means a calendar day unless otherwise designated.

"Dwelling" means a one-, two- or three-family residence that is freestanding or shares a party wall without common ownership interest in that party wall. A dwelling may be part of a real property development.

"Equipment" means any machinery or other apparatus, including rental equipment delivered to the site to be improved or used on the site to be improved, whether for incorporation in the improved real property or for use in the construction of the improvement of the real property. A lien for equipment shall arise only for equipment used on site for the improvement of real property, including equipment installed in the improved real property. In the case of rental equipment, the amount of any lien shall be limited to the rental rates as set forth in the rental contract.

"Filing" means the (1) lodging for record and (2) the indexing of the documents authorized to be filed or recorded pursuant to this act in the office of the county clerk in the county where the property subject to the lien is located, or, in the case of real property located in more than one county, in the office of the county clerk of each such county. A document that is "lodged for record" shall mean a document that is delivered to the county clerk and marked by the clerk with a date and time stamp or other mark indicating the date and time received.

"First tier lien claimant" means a claimant who is a contractor.

"Improvement" means any actual or proposed physical changes to real property resulting from the provision of work, services, or material by a contractor, subcontractor, or supplier pursuant to a contract, whether or not such physical change is undertaken, and includes the construction, reconstruction, alteration, repair, renovation, demolition or removal of any building or structure, any addition to a building or structure, or any construction or fixture necessary or appurtenant to a building or structure for use in conjunction therewith. "Improvement" includes, but is not limited to, excavation, digging, drilling, drainage, dredging, filling, irrigation, land clearance, grading or landscaping. "Improvement" shall not include the mining of minerals or removal of timber, gravel, soil, or sod which is not integral to or necessitated by the improvement to real property. "Improvement" shall not include public works or improvements to real property contracted for and awarded by a public entity. Any work or services requiring a license for performance including, but not limited to, architectural, engineering, plumbing or electrical construction, shall not constitute an improvement unless performed by a licensed claimant.

"Interest in real property" means any ownership, possessory security or other enforceable interest, including, but not limited to, fee title, easement rights, covenants or restrictions, leases and mortgages.

"Lien" or "construction lien" means a lien on the owner's interest in the real property arising pursuant to this act.

"Lien claim" means a claim, by a claimant, for money for the value of work, services, material or equipment furnished in accordance with a contract and based upon the contract price and any amendments thereto, that has been secured by a lien pursuant to this act. The term "value" includes retainage earned against work, services, materials or equipment furnished.

"Lien fund" means the pool of money from which one or more lien claims may be paid. The amount of the lien fund shall not exceed the maximum amount for which an owner can be liable. The amount of the lien that attaches to the owner's interest in the real property cannot exceed the lien fund.

"Material" means any goods delivered to, or used on the site to be improved, for incorporation in the improved real property, or for consumption as normal waste in construction operations; or for use on site in the construction or operation of equipment used in the improvement of the real property but not incorporated therein. The term "material" does not include fuel provided for use in motor vehicles or equipment delivered to or used on the site to be improved.

"Mortgage" means a loan which is secured by a lien on real property.

"Owner" or "owner of real property" means any person, including a tenant, with an interest in real property who personally or through an authorized agent enters into a contract for improvement of the real property. "Owner" or "owner of real property" shall not include a "community association" that holds record title to real property or has an interest in real property.

"Person" means an individual, corporation, company, association, society, firm, limited liability company, limited liability partnership, partnership, joint stock company or any other legal entity, unless restricted by the context to one or more of the above.

"Public entity" includes the State, and any county, municipality, district, public authority, public agency, and any other political subdivision or public body in the State.

"Real property development" means all forms of residential and nonresidential real property development including, but not limited to, a condominium subject to the "Condominium Act," P.L.1969, c.257 (C.46:8B-1 et seq.), a housing cooperative subject to "The Cooperative Recording Act of New Jersey," P.L.1987, c.381 (C.46:8D-1 et al.), a fee simple townhouse development, a horizontal property regime as defined in section 2 of P.L.1963, c.168 (C.46:8A-2), and a planned unit development as defined in section 3.3 of P.L.1975, c.291 (C.40:55D-6).

"Residential construction," also referred to as "residential housing construction" or "home construction," means construction of or improvement to a dwelling, or any portion thereof, or any residential unit, or any portion thereof. In the case of a real property development, "residential construction" or "residential housing construction" or "home construction" also includes: (1) all offsite and onsite infrastructure and sitework improvements required by a residential construction contract, master deed, or other document; (2) the common elements of the development, which may also include by definition the offsite and onsite infrastructure and sitework improvements; and (3) those areas or buildings commonly shared.

"Residential construction contract" means a contract for the construction of, or improvement to, a dwelling, or dwellings or any portion thereof, or a residential unit, or units, or dwellings, or any portion thereof in a real property development.

"Residential purchase agreement" means a contract between a buyer and a seller for the purchase of a dwelling, or dwellings or a residential unit or units in a real property development.

"Residential unit" means a unit in a real property development designed to be transferred or sold for use as a residence, and the design evidenced by a document, such as a master deed or declaration, recorded with the county clerk in the county where the real property is located, or a public offering statement filed with the Department of Community Affairs. "Residential unit" includes a unit designed to be transferred or sold for use as a residence that is part of a multi-use or mixed use development project. "Residential unit" shall not include a unit designed for rental purposes or a unit designed to be transferred or sold for non-residential use.

"Second tier lien claimant" means a claimant who is, in relation to a contractor: (1) a subcontractor; or (2) a supplier.

"Services" means professional services performed by a licensed architect, engineer, land surveyor, or certified landscape architect, who is not a salaried employee of the contractor, a subcontractor or the owner and who is in direct privity of contract with the owner for the preparation of plans, documents, studies, or the provision of other services by a licensed architect, engineer or land surveyor prepared in connection with improvement to real property, whether or not such improvement is undertaken.

"State" means the State of New Jersey and any office, department, division, bureau, board, commission or agency of the State.

"Subcontractor" means any person providing work or services in connection with the improvement of real property pursuant to a contract with a

contractor or pursuant to a contract with a subcontractor in direct privity of contract with a contractor.

"Supplier" means any supplier of material or equipment, including rental equipment, having a direct privity of contract with an owner, community association, contractor or subcontractor in direct privity of contract with a contractor. The term "supplier" shall not include a person who supplies fuel for use in motor vehicles or equipment delivered to or used on the site to be improved or a seller of personal property who has a security agreement providing a right to perfect either a security interest pursuant to Title 12A of the New Jersey Statutes or a lien against the motor vehicle pursuant to applicable law.

"Third tier lien claimant" means a claimant who is a subcontractor to a second tier lien claimant or a supplier to a second tier lien claimant.

"Work" means any activity, including, but not limited to, labor, performed in connection with the improvement of real property. The term "work" includes architectural, engineering or surveying services provided by salaried employees of a contractor or subcontractor, as part of the work of the contractor or subcontractor, provided, however, that the right to file a lien claim for those services shall be limited to the contractor or subcontractor.

2. Section 3 of P.L.1993, c.318 (C.2A:44A-3) is amended to read as follows:

C.2A:44A-3 Lien entitlement for work, services, etc.; terms defined.

3. a. Any contractor, subcontractor or supplier who provides work, services, material or equipment pursuant to a contract, shall be entitled to a lien for the value of the work or services performed, or materials or equipment furnished in accordance with the contract and based upon the contract price, subject to sections 6, 9, and 10 of P.L.1993, c.318 (C.2A:44A-6, 2A:44A-9 and 2A:44A-10). The lien shall attach to the interest of the owner or unit owner of the real property development, or be filed against the community association, in accordance with this section.

b. For purposes of this section:

(1) "interest of the owner of the real property development" includes interest in any residential or nonresidential units not yet sold or transferred and the proportionate undivided interests in the common elements attributable to those units;

(2) "interest of the unit owner" includes the proportionate undivided interests in the common elements of the real property development;

(3) "unit owner" means an owner of an interest in a residential or nonresidential unit who is not a developer of the property and acquires the unit after the master deed or master declaration is recorded, or after the public offering statement is filed with the Department of Community Affairs; and

c. In the case of a condominium, notwithstanding the provisions of the "Condominium Act," P.L.1969, c.257 (C.46:8B-1 et seq.), or in the case of any other real property development with common elements or common areas or facilities, if the contract is:

(1) with the owner of the real property development, then the lien shall attach to the interest of the owner of the real property development;

(2) with the community association, the lien claim shall be filed against the community association but shall not attach to any real property.

In either case, if the work, services, material or equipment are performed or furnished as part of the common elements or facilities of a real property development, the lien shall not attach to the interest of the unit owner.

d. If the work, services, material or equipment are performed or furnished solely within or as part of a residential or nonresidential unit, the lien shall attach only to the interest of the unit owner.

e. If a tenant contracts for improvement of the real property, the lien shall attach to the leasehold estate of the tenant and to the interest in the property of any person who:

(1) has expressly authorized the contract for improvement in writing signed by the person against whom the lien claim is asserted, which writing provides that the person's interest is subject to a lien for this improvement;

(2) has paid, or agreed in writing to pay, the majority of the cost of the improvement; or

(3) is a party to the lease or sublease that created the leasehold interest of the tenant and the lease or sublease provides that the person's interest is subject to a lien for the improvement.

f. An amount of a lien on an interest of a person other than a tenant shall be limited to the amount that person agreed in writing to pay, less payments made by or on behalf of that person in good faith prior to the filing of the lien.

g. If an interest in real property is lawfully conveyed after work, services, material, or equipment are performed or furnished but before a lien attaches, the lien shall attach only to the interest retained by the owner or unit owner or community association, as the case may be, who contracted for the work, services, material or equipment and not to the interest previously conveyed.

h. Nothing in this act shall be construed to limit the right of any claimant from pursuing any other remedy provided by law.

3. Section 6 of P.L.1993, c.318 (C.2A:44A-6) is amended to read as follows:

C.2A:44A-6 Filing lien claim.

6. a. A contractor, subcontractor or supplier entitled to file a lien pursuant to section 3 of P.L.1993, c.318 (C.2A:44A-3) shall do so according to the following process:

(1) The lien claim form as provided by section 8 of P.L.1993, c.318 (C.2A:44A-8) shall be signed, acknowledged and verified by oath of the claimant setting forth:

(a) the specific work or services performed, or material or equipment provided pursuant to contract; and

(b) the claimant's identity and contractual relationship with the owner or community association and other known parties in the construction chain.

(2) In all cases except those involving a residential construction contract, the lien claim form shall then be lodged for record within 90 days following the date the last work, services, material or equipment was provided for which payment is claimed. In the case of a residential construction contract, the lien claim form shall be lodged for record, as required by paragraph (8) of subsection b. of section 21 of P.L.1993, c.318 (C.2A:44A-21), not later than 10 days after receipt by the claimant of the arbitrator's determination, and within 120 days following the date the last work, services, material or equipment was provided for which payment is claimed. If requested, at the time of lodging for record, the clerk shall provide a copy of the lien claim form marked with a date and time received.

b. A lien shall not attach or be enforceable unless the lien claim or other document permitted to be filed is:

(1) filed in the manner and form provided by this section and section 8 of P.L.1993, c.318 (C.2A:44A-8); and

(2) a copy thereof served in accordance with section 7 of P.L.1993, c.318 (C.2A:44A-7), except that every document lodged for record that satisfies the requirements of this section, even if not yet filed, shall be enforceable against parties with notice of the document. A document shall be first filed, however, in order to be enforceable against third parties without notice of the document, including, but not limited to, an owner, bona fide

purchaser, mortgagee, grantee of an easement, or a lessee or a grantee of any other interest in real estate.

c. In the case of a residential construction contract the lien claim shall also comply with section 20 of P.L.1993, c.318 (C.2A:44A-20) and section 21 of P.L.1993, c.318 (C.2A:44A-21).

d. For purposes of this act, warranty or other service calls, or other work, materials or equipment provided after completion or termination of a claimant's contract shall not be used to determine the last day that work, services, material or equipment was provided.

4. Section 7 of P.L.1993, c.318 (C.2A:44A-7) is amended to read as follows:

C.2A:44A-7 Serving of lien claim by claimant.

7. a. Within 10 days following the lodging for record of a lien claim, the claimant shall serve on the owner, or community association in accordance with section 3 of P.L.1993, c.318 (C.2A:44A-3), and, if any, the contractor and subcontractor against whom the claim is asserted, a copy of the completed and signed lien claim substantially in the form prescribed by section 8 of P.L.1993, c.318 (C.2A:44A-8) and marked "received for filing" or a similar stamp with a date and time or other mark indicating the date and time received by the county clerk. Service shall be by personal service as prescribed by the Rules of Court adopted by the Supreme Court of New Jersey or by:

(1) simultaneous registered or certified mail or commercial courier whose regular business is delivery service; and

(2) ordinary mail addressed to the last known business or residence address of the owner or community association, contractor or subcontractor. A lien claim served upon a community association need not be served upon individual "unit owners" as defined in section 3 of P.L.1993, c.318 (C.2A:44A-3).

b. The service of the lien claim provided for in this section shall be a condition precedent to enforcement of the lien; however, the service of the lien claim outside the prescribed time period shall not preclude enforceability unless the party not timely served proves by a preponderance of the evidence that the late service has materially prejudiced its position. Disbursement of funds by the owner, community association, a contractor or a subcontractor who has not been properly served, or the creation or conveyance of an interest in real property by an owner who has not been properly served, shall constitute prima facie evidence of material prejudice.

5. Section 8 of P.L.1993, c.318 (C.2A:44A-8) is amended to read as follows:

C.2A:44A-8 Lien claim form.

8. The lien claim shall be filed in substantially the following form:

CONSTRUCTION LIEN CLAIM
TO THE CLERK, COUNTY OF _____:

In accordance with the "Construction Lien Law," P.L.1993, c.318 (C.2A:44A-1 et al.), notice is hereby given that (*only complete those sections that apply*):

1. On (*date*), I, (*name of claimant*), individually, or as a partner of the claimant known as (*name of partnership*), or an officer/member of the claimant known as (*name of corporation or LLC*) (*circle one and fill in name as applicable*), located at (*business address of claimant*), claim a construction lien against the real property of (*name of owner of property subject to lien*), in that certain tract or parcel of land and premises described as Block _____, Lot ____, on the tax map of the (*municipality*) of _____, County of_____, State of New Jersey, (*or if no Block and Lot is assigned, a metes and bounds or other description of the property*) in the amount of $(*lien claim amount*), as calculated below for the value of the work, services, material or equipment provided. (*If the claim is against a community association in accordance with section 3 of P.L.1993, c.318 (C.2A:44A-3) set forth the name of the community association and the name and location of the property development.*) The lien is claimed against the interest of the owner, unit owner, or against the community association in accordance with section 3 of P.L.1993, c.318 (C.2A:44A-3) or other party (*circle one; if "other", describe*: _____).

2. In accordance with a written contract for improvement of the above property, dated_____, with the property owner, community association, contractor, or subcontractor (*circle one*), named or known as (*name of appropriate party*), and located at (*address of owner, unit owner, community association, contractor or subcontractor*), this claimant performed the following work or provided the following services, material or equipment:

a. _____

b._____

c. _____etc.

3. The date of the provision of the last work, services, material or equipment for which payment is claimed is _____, 20__.

4. The amount due for work, services, material or equipment delivery provided by claimant in connection with the improvement of the real property, and upon which this lien claim is based, is calculated as follows:

A. Initial Contract Price: $ _____

B. Executed Amendments to Contract Price/Change Orders: $_____

C. Total Contract Price (A + B) = $_____

D. If Contract Not Completed, Value Determined in Accordance with the Contract of Work Completed or Services, Material, Equipment Provided: _____

E. Total from C or D (*whichever is applicable*): $ _____

F. Agreed upon Credits: $ _____

G. Amount Paid to Date: $ _____

TOTAL LIEN CLAIM AMOUNT E - [F + G] = $_____

NOTICE OF UNPAID BALANCE AND ARBITRATION AWARD

This claim (*check one*) does _____does not _____arise from a Residential Construction Contract. If it does, complete 5 and 6 below; if not residential, complete 5 below, only if applicable. If not residential and 5 is not applicable, skip to Claimant's Representation and Verification.

5. A Notice of Unpaid Balance and Right to File Lien (*if any*) was previously filed with the County Clerk of _____ County on_____, 20__ as No._____, in Book _____and Page _____.

6. An award of the arbitrator (*if residential)* was issued on_____ in the amount of $_____.

CLAIMANT'S REPRESENTATION AND VERIFICATION

Claimant represents and verifies under oath that:

1. I have authority to file this claim.

2. The claimant is entitled to the amount claimed at the date of lodging for record of the claim, pursuant to claimant's contract described above.

3. The work, services, material or equipment for which this lien claim is filed was provided exclusively in connection with the improvement of the real property which is the subject of this claim.

4. This claim form has been lodged for record with the County Clerk where the property is located within 90 or, if residential construction, 120 days from the last date upon which the work, services, material or equipment for which payment is claimed was provided.

5. This claim form has been completed in its entirety to the best of my ability and I understand that if I do not complete this form in its entirety, the form may be deemed invalid by a court of law.

6. This claim form will be served as required by statute upon the owner or community association, and upon the contractor or subcontractor against whom this claim has been asserted, if any.

7. The foregoing statements made by me in this claim form are true, to the best of my knowledge. I am aware that if any of the foregoing statements made by me in this claim form are willfully false, this construction lien claim will be void and that I will be liable for damages to the owner or any other person injured as a consequence of the filing of this lien claim.

Name of Claimant

_____

Signed

_____

(Type or Print Name and Title)

SUGGESTED NOTARIAL FOR INDIVIDUAL CLAIMANT:

STATE OF NEW JERSEY
COUNTY OF [ ] ss:

On this ____ day of _____ 20___, before me, the subscriber, personally appeared (*person signing on behalf of claimant(s)*) who, I am satisfied, is/are the person(s) named in and who executed the within instrument, and thereupon acknowledged that claimant(s) signed, sealed and delivered the same as claimant's (s') act and deed, for the purposes therein expressed.

_____

NOTARY PUBLIC

SUGGESTED NOTARIAL FOR CORPORATE OR LIMITED LIABILITY CLAIMANT:

STATE OF NEW JERSEY
COUNTY OF [ ] ss:

On this ____ day of _____ 20__, before me, the subscriber, personally appeared (*person signing on behalf of claimant(s)*) who, I am satisfied is the Secretary (*or other officer/manager/agent*) of the Corporation (*partnership or limited liability company*) named herein and who by me duly sworn/affirmed, asserted authority to act on behalf of the Corporation (*partnership or limited liability company*) and who, by virtue of its Bylaws, or Resolution of its Board of Directors (*or partnership or operating agreement*) executed the within instrument on its behalf, and thereupon acknowledged that claimant signed, sealed and delivered same as claimant's act and deed, for the purposes herein expressed.

_____
NOTARY PUBLIC

NOTICE TO OWNER OF REAL PROPERTY
NOTICE TO CONTRACTOR OR SUBCONTRACTOR, IF APPLICABLE

The owner's real estate may be subject to sale to satisfy the amount asserted by this claim. However, the owner's real estate cannot be sold until the facts and issues which form the basis of this claim are decided in a legal proceeding before a court of law. The lien claimant is required by law to commence suit to enforce this claim.

The claimant filing this lien claim shall forfeit all rights to enforce the lien claim and shall be required to discharge the lien claim of record, if the claimant fails to bring an action in the Superior Court, in the county in which the real property is situated, to establish the lien claim:

1. Within one year of the date of the last provision of work, services, material or equipment, payment for which the lien claim was filed; or

2. Within 30 days following receipt of written notice, by personal service or certified mail, return receipt requested, from the owner or community association, contractor, or subcontractor against whom a lien claim is filed, as appropriate, requiring the claimant to commence an action to establish the lien claim.

You will be given proper notice of the proceeding and an opportunity to challenge this claim and set forth your position. If, after the owner (and/or contractor or subcontractor) has had the opportunity to challenge this lien claim, the court of law enters a judgment against any of you and in

favor of the claimant filing this lien claim, and thereafter judgment is not paid, the owner's real estate may then be sold to satisfy the judgment. A judgment against a community association for a claim of work, services, material or equipment pursuant to a contract with that community association cannot be enforced by a sale of real estate.

The owner may choose to avoid subjecting the real estate to sale by the owner (or contractor) by either:

1. paying the claimant and obtaining a discharge of lien claim from the claimant, by which the owner will lose the right to challenge this lien claim in a legal proceeding before a court of law; or

2. causing the lien claim to be discharged by filing a surety bond or making a deposit of funds as provided for in section 31 of P.L.1993, c.318 (C.2A:44A-31), by which the owner will retain the right to challenge this lien claim in a legal proceeding before a court of law.

6. Section 9 of P.L.1993, c.318 (C.2A:44A-9) is amended to read as follows:

C.2A:44A-9 Amount of lien claim.

9. a. The amount of a lien claim shall not exceed the unpaid portion of the contract price of the claimant's contract for the work, services, material or equipment provided.

b. Except as set forth in sections 15 and 21 of P.L.1993, c.318 (C.2A:44A-15 and 2A:44A-21), and subject to section 7 of P.L.1993, c.318 (C.2A:44A-7) and subsection c. of this section, the lien fund shall not exceed:

(1) in the case of a first tier lien claimant or second tier lien claimant, the earned amount of the contract between the owner and the contractor minus any payments made prior to service of a copy of the lien claim; or

(2) in the case of a third tier lien claimant, the lesser of: (a) the amount in paragraph (1) above; or (b) the earned amount of the contract between the contractor and the subcontractor to the contractor, minus any payments made prior to service of a copy of the lien claim.

c. A lien fund regardless of tier shall not be reduced by payments by the owner, or community association in accordance with section 3 of P.L.1993, c.318 (C.2A:44A-3), that do not discharge the obligations for the work performed or services, material or equipment provided, including, but not limited to:

(1) payments not in accordance with written contract provisions;

(2) payments yet to be earned upon lodging for record of the lien claim;

(3) liquidated damages;

(4) collusive payments;

(5) use of retainage to make payments to a successor contractor after the lien claim is lodged for record; or

(6) setoffs or backcharges, absent written agreement by the claimant, except for any setoffs upheld by judgment that are first determined by: (a) arbitration or alternate dispute resolution in a proceeding conducted in accordance with section 21 of P.L.1993, c.318 (C.2A:44A-21); or (b) any other alternate dispute resolution agreed to by the parties.

d. Subject to subsection c. above, no lien fund exists, if, at the time of service of a copy of the lien claim, the owner or community association has fully paid the contractor for the work performed or for services, material or equipment provided.

e. For purposes of a lien fund calculation, the "earned amount of the contract" is the contract price unless the party obligated to perform has not completed the performance in which case the "earned amount of the contract" is the value, as determined in accordance with the contract, of the work performed and services, material or equipment provided.

f. If more than one lien claimant will participate in a lien fund, the lien fund shall be established as of the date of the first of the participating lien claims lodged for record unless the earned amount of the contract increases, in which case the lien fund shall be calculated from the date of the increase.

g. No lien rights shall exist for other than first, second, or third tier lien claimants.

7. Section 10 of P.L.1993, c.318 (C.2A:44A-10) is amended to read as follows:

C.2A:44A-10 Attachment of lien to interest of owner; amount of liability.

10. Subject to the limitations of sections 3 and 6 of P.L.1993, c.318 (C.2A:44A-3 and 2A:44A-6), the lien shall attach to the interest of the owner from and after the time of filing of the lien claim. Except as provided by section 20 of P.L.1993, c.318 (C.2A:44A-20), no lien shall attach to the interest acquired by a bona fide purchaser as evidenced by a recordable document recorded or lodged for record before the date of filing of the lien claim. A lien claim shall not, except as provided by sections 20 and 22 of P.L.1993, c.318 (C.2A:44A-20 and 2A:44A-22), have a priority over any mortgage, judgment or other lien or interest in real estate first recorded, lodged for record, filed or docketed. A lien claim filed under this act shall

be subject to the effect of a Notice of Settlement filed pursuant to P.L.1979, c.406 (C.46:16A-1 et seq.).

8. Section 11 of P.L.1993, c.318 (C.2A:44A-11) is amended to read as follows:

C.2A:44A-11 Amendment of lien claim, form.

11. a. A lien claim may be amended for any appropriate reason, including but not limited to correcting inaccuracies or errors in the original lien claim form, or revising the amount claimed because of:

(1) additional work performed or services, material, or equipment provided;

(2) the release of a proportionate share of an interest in real property from the lien in accordance with section 18 of P.L.1993, c.318 (C.2A:44A-18); or

(3) the partial payment of the lien claim.

A lien claim may not be amended to cure a violation of section 15 of P.L.1993, c.318 (C.2A:44A-15).

b. The amended lien claim, which shall be filed with the county clerk, shall comply with all the conditions and requirements for the filing of an original lien claim, including but not limited to the notice requirements of section 7 of P.L.1993, c.318 (C.2A:44A-7) and shall be subject to the limitations of sections 9 and 10 of P.L.1993, c.318 (C.2A:44A-9 and 2A:44A-10). That portion of the amended lien in excess of the amount previously claimed shall attach as of the date of filing of the original lien claim. That excess amount shall also be used to calculate the lien fund pursuant to subsection f. of section 9 of P.L.1993, c.318 (C.2A:44A-9).

c. The amended lien claim shall be filed in substantially the following form:

AMENDMENT TO CONSTRUCTION LIEN CLAIM

TO THE CLERK, COUNTY OF _____:

1. On *(date)*, the undersigned claimant, (*name of claimant*) of (*address of claimant*), filed a CONSTRUCTION LIEN CLAIM in the amount of ($_____) DOLLARS for the value of the work, services, material or equipment provided in accordance with the contract between claimant and (*name*) as of (*date*).

2. This construction lien claim was claimed against the interest of (*name*) as (*circle one*): owner, unit owner, community association or other party; (*if "other," describe:* _____) in that certain tract or parcel of land and premises described as Block ____, Lot ____, on the tax map of the ____ (*municipality*) of ____, County of ____, State of New Jersey, for the improvement of which property the aforementioned work, services, material or equipment was provided. (*If the claim was against a community association in accordance with section 3 of P.L.1993, c.318 (C.2A:44A-3), set forth the name of the community association and the name and location of the property development.*)

3. This amends a lien claim which was previously lodged for record on _____, 20____ and filed with the County Clerk of ____County on _____, 20____ and recorded on _____, 20____ as No. ____ in Book No. ____, Page ____. A Notice of Unpaid Balance and Right to File Lien (if any) was previously filed with the County Clerk of ____ on ____, 20____ and recorded on _____, 20____ as No. ____ in Book No. ____, Page ____.

4. Amendments to the original claim were recorded in the office of the County Clerk on _____, 20____ as No. ____ in Book No. ____, Page ____. (Complete if applicable)

5. Effective the date of the lodging for record of this AMENDMENT TO CONSTRUCTION LIEN CLAIM, the value of the lien is claimed to be in the total amount of ($____) DOLLARS, inclusive of all prior lien claims or amendments thereof.

6. The work, services, material or equipment provided upon which this Amendment is made are:

a. _____

b. _____

c. _____ (etc.)

7. The date of the provision of the last work, services, material or equipment for which payment is claimed is (*date*).

8. The reason for this amendment is _____

CLAIMANTS REPRESENTATION AND VERIFICATION

(*Same as for lien claim*)

NOTICE TO OWNER OF REAL PROPERTY

(*Same as for lien claim*)

NOTICE TO SUBCONTRACTOR OR CONTRACTOR

(*Same as for lien claim*)

9. Section 12 of P.L.1993, c.318 (C.2A:44A-12) is amended to read as follows:

C.2A:44A-12 Authorized withholding, deductions.

12. Upon receipt of notice of a lien claim, the owner, or community association in accordance with section 3 of P.L.1993, c.318 (C.2A:44A-3), shall be authorized to withhold and deduct the amount claimed from the unpaid part of the contract price that is or thereafter may be due and payable to the contractor or subcontractor, or both. The owner or community association may pay the amount of the lien claim to the claimant unless the contractor or subcontractor against whose account the lien is filed notifies the owner and the lien claimant in writing within 20 days of service of the lien claim upon both the owner or community association and the contractor or subcontractor, that the claimant is not owed the monies claimed and the reasons therefor. Any such payment made by the owner or community association shall constitute a payment made on account of the contract price of the contract with the contractor or subcontractor, or both, against whose account the lien is filed.

10. Section 13 of P.L.1993, c.318 (C.2A:44A-13) is amended to read as follows:

C.2A:44A-13 "Construction Lien Book," "Construction Lien Index Book"; fees.

13. a. The county clerk shall provide a book designated as the "Construction Lien Book" in which shall be entered each Notice of Unpaid Balance and Right to File Lien, Amended Notice of Unpaid Balance and Right to File Lien, lien claim and amended lien claim, and discharge, subordination or release of a lien claim or Notice of Unpaid Balance and Right to File Lien presented for filing pursuant to this act.

b. The county clerk shall cause marginal notations to be made upon each filed document as follows:

(1) upon each Notice of Unpaid Balance and Right to File Lien, the date an amendment to that Notice or discharge thereof, and related lien claim or amendment thereto is filed;

(2) upon each lien claim, the date an amendment thereto is filed; and the date a discharge, subordination or release thereof is filed; and

(3) upon the affected lien claim or amended lien claim, the date of the filing of the Notice of Lis Pendens pertaining to the real property subject to the lien claim.

c. The failure of the clerk to cause a marginal notation to be made in accordance with subsection b. of this section shall not affect the validity, priority or enforceability of any document filed pursuant to this act.

d. The county clerk shall provide and maintain an index book designated as the "Construction Lien Index Book," setting forth alphabetically, and arranged by owners' or community associations' names, and by claimants' names, each Notice of Unpaid Balance and Right to File Lien, Amended Notice of Unpaid Balance and Right to File Lien, lien claim, amended lien claim, discharge, subordination and release of a lien claim or Notice of Unpaid Balance and Right to File Lien.

e. Each county clerk shall charge fees for the filing and marginal notation of the documents authorized to be filed by this act as set forth in N.J.S.22A:2-29.

11. Section 14 of P.L.1993, c.318 (C.2A:44A-14) is amended to read as follows:

C.2A:44A-14 Claimant's failure to commence action; forfeiture, liability.

14. a. A claimant filing a lien claim shall forfeit all rights to enforce the lien, and shall immediately discharge the lien of record in accordance with section 30 of P.L.1993, c.318 (C.2A:44A-30), if the claimant fails to commence an action in the Superior Court, in the county in which the real property is situated, to enforce the lien claim:

(1) Within one year of the date of the last provision of work, services, material or equipment, payment for which the lien claim was filed; or

(2) Within 30 days following receipt of written notice, by personal service or certified mail, return receipt requested, from the owner, community association, contractor, or subcontractor against whose account a lien claim is filed, requiring the claimant to commence an action to enforce the lien claim.

b. Any lien claimant who forfeits a lien pursuant to this section and fails to discharge that lien of record in accordance with section 30 of P.L.1993, c.318 (C.2A:44A-30), shall be liable for all court costs, and reasonable legal expenses, including, but not limited to, attorneys' fees, incurred by the owner, community association, contractor, or subcontractor, or the total costs and legal expenses of all or any combination of them, in defending or causing the discharge of the lien claim. The court shall, in addition, enter judgment against the claimant who fails to discharge the lien for damages to any of the parties adversely affected by the lien claim.

c. (Deleted by amendment, P.L.2010, c.119)

d. Any disputes arising out of the improvement which is the subject of a lien claim but which are unrelated to any action to enforce a lien claim may be brought in a separate action or in a separate count in the same action.

12. Section 15 of P.L.1993, c.318 (C.2A:44A-15) is amended to read as follows:

C.2A:44A-15 Improper lodging of lien claim; forfeiture of rights; liability.

15. a. If a lien claim is without basis, the amount of the lien claim is willfully overstated, or the lien claim is not lodged for record in substantially the form or in the manner or at a time not in accordance with this act, the claimant shall forfeit all claimed lien rights and rights to file subsequent lien claims to the extent of the face amount claimed in the lien claim. The claimant shall also be liable for all court costs, and reasonable legal expenses, including, but not limited to, attorneys' fees, incurred by the owner, community association, contractor or subcontractor, or any combination of owner, community association in accordance with section 3 of P.L.1993, c.318 (C.2A:44A-3), contractor and subcontractor, in defending or causing the discharge of the lien claim. The court shall, in addition, enter judgment against the claimant for damages to any of the parties adversely affected by the lien claim.

b. If a defense to a lien claim is without basis, the party maintaining the defense shall be liable for all court costs, and reasonable legal expenses, including, but not limited to, attorneys' fees, incurred by any of the parties adversely affected by the defense to the lien claim. The court shall, in addition, enter judgment against the party maintaining this defense for damages to any of the parties adversely affected thereby.

c. If a lien claim is forfeited pursuant to this section, or section 14 of P.L.1993, c.318 (C.2A:44A-14), nothing herein shall be construed to bar the filing of a subsequent lien claim, provided, however, any subsequent lien claim shall not include a claim for the work, services, equipment or material claimed within the forfeited lien claim.

d. For the purpose of this section "without basis" means frivolous, false, unsupported by a contract, or made with malice or bad faith or for any improper purpose.

13. Section 18 of P.L.1993, c.318 (C.2A:44A-18) is amended to read as follows:

C.2A:44A-18 Calculation of proportionate share under residential construction.

18. This section shall solely apply to work, services, material or equipment furnished under a residential construction contract. If a lien attaches to an interest in real property, the lien claimant shall release a proportionate share of the interest in real property from the lien upon receipt of payment for that proportionate share. This proportionate share shall be calculated in the following manner:

a. If there is a contract between the lien claimant and the owner or other writing signed by the parties which provides for an allocation by lot or tract, or otherwise, that allocation of the proportionate share shall be binding upon the lien claimant. Absent a contract between the lien claimant and the owner or other writing signed by the parties, any allocation made shall be proportionate to each lot if subdivision approval has been granted or to each tract if no subdivision approval is required or has been granted.

b. If the work performed by the lien claimant was for a condominium in which a master deed is filed before the lien attaches, or for work performed for a cooperative in which a master declaration is filed before the lien attaches, then the proportionate share shall be allocated in an amount equal to the percentage of common elements attributable to each residential unit, subject to the limitations of subsections b. and c. of section 3 of P.L.1993, c.318 (C.2A:44A-3).

c. If subsection a. or b. of this section does not apply, then the lien shall not be released as to any portion of the interest in real property.

d. If a lien claimant receives payment of the proportionate share but refuses to discharge its lien claim, then upon application to a court having jurisdiction thereof, the court shall order the discharge of the lien claim to the extent of that proportionate share. The lien claimant shall be further subject to section 30 of P.L.1993, c.318 (C.2A:44A-30), and any amounts to be paid shall be paid from the amount due the claimant.

14. Section 20 of P.L.1993, c.318 (C.2A:44A-20) is amended to read as follows:

C.2A:44A-20 Notice of Unpaid Balance and Right to File Lien, form.

20. a. All valid liens filed pursuant to this act shall attach to the interest of the owner from the time of filing of the lien claim, subject to this section and sections 3, 6, and 10 of P.L.1993, c.318 (C.2A:44A-3, 2A:44A-6 and 2A:44A-10).

b. A lien claim validly filed under this act shall have priority over a prior conveyance, lease or mortgage of an interest in real property to which

improvements have been made, only if a Notice of Unpaid Balance and Right to File Lien is filed before the recording or lodging for record of a recordable document evidencing that conveyance, lease or mortgage. The Notice of Unpaid Balance and Right to File Lien shall be filed in substantially the following form:

TO THE CLERK, COUNTY OF _____:

NOTICE OF UNPAID BALANCE AND RIGHT TO FILE LIEN

In accordance with the "Construction Lien Law," P.L.1993, c.318 (C.2A:44A-1 et al.), notice is hereby given that:

1. (*Name of claimant*), individually or as a partner of the claimant known as (*Name of partnership*), or an officer/member of the claimant known as (*Name of corporation or LLC*) *(Please circle one and fill in name as applicable*) located at (*Business address of claimant*) has on (*date*) a potential construction lien against the real property of (*name of owner of property subject to lien*), in that certain tract or parcel of land and premises described as Block ____, Lot ____, on the tax map of the (*municipality*) of _____, County of _____, State of New Jersey, in the amount of ($_____), as calculated below for the value of the work, services, material or equipment provided. (*If claim is against a community association in accordance with section 3 of P.L.1993, c.318 (C.2A:44A-3), set forth the name of the community association and the name and location of the property development.*) The lien is to be claimed against the interest of the owner, unit owner, or other party, or against the community association (circle one; if *"other", describe*: _____).

2. The work, services, material or equipment was provided pursuant to the terms of a written contract (or, in the case of a supplier, a delivery or order slip signed by the owner, community association, contractor, or subcontractor having a direct contractual relation with a contractor, or an authorized agent of any of them), dated _____, between (*claimant*) and owner, unit owner, community association, contractor or subcontractor (*circle one*), named or known as *(name of contracting party)* and located at (*address of other contracting party*), in the total contract amount of ($_____) together with (*if applicable*) amendments to the total contract amount aggregating ($_____).

3. In accordance with the above contract, this claimant performed the following work or provided the following services, material or equipment:

a. _____

b._____

c. _____ etc.

4. The date of the provision of the last work, services, material or equipment for which payment is claimed is (*date.*)

5. The amount due for work, services, material or equipment provided by claimant in connection with the improvement of the real property, and upon which this lien claim is based is calculated as follows:

A. Initial Contract Price: $ _____

B. Executed Amendments to Contract Price/Change Orders: $_____

C. Total Contract Price (A + B) = $_____

D. If Contract Not Completed, Value Determined in Accordance with Contract of Work Completed or Services, Material or Equipment Provided:_____

E. Total from C or D (*whichever is applicable*): $ _____

F. Agreed upon Credits: $ _____

G. Amount Paid to Date: $ _____

TOTAL LIEN CLAIM AMOUNT E - [F + G] = $_____

6. The written contract (*is*) (*is not*) (*cross out inapplicable portion*) a residential construction contract as defined in section 2 of P.L.1993, c.318 (C.2A:44A-2).

7. This notification has been lodged for record prior or subsequent to completion of the work, services, material or equipment as described above. The purpose of this notification is to advise the owner or community association and any other person who is attempting to encumber or take transfer of said property described above that a potential construction lien may be lodged for record within the 90-day period, or in the case of a residential construction contract within the 120-day period, following the date of the provision of the last work, services, material or equipment as set forth in paragraph 4 of this notice.

CLAIMANT'S REPRESENTATION AND VERIFICATION

Claimant represents and verifies that:

1. I have authority to file this Notice of Unpaid Balance and Right to File Lien.

2. The claimant is entitled to the amount claimed herein at the date this Notice is lodged for record, pursuant to claimant's contract described in the Notice of Unpaid Balance and Right to File Lien.

3. The work, services, material or equipment for which this Notice of Unpaid Balance and Right to File Lien is filed was provided exclusively in connection with the improvement of the real property which is the subject of this Notice of Unpaid Balance and Right to File Lien.

4. The Notice of Unpaid Balance and Right to File Lien has been lodged for record within 90 days, or in the case of a residential construction contract within 60 days, from the last date upon which the work, services, material or equipment for which payment is claimed was provided.

5. The foregoing statements made by me are true, to the best of my knowledge.

Name of Claimant_____
Signed_____
(*Type or Print Name and Title*)

SUGGESTED NOTARIAL FOR INDIVIDUAL CLAIMANT:

STATE OF NEW JERSEY
COUNTY OF [ ] ss:

On this ____ day of _____ 20___, before me, the subscriber, personally appeared (*person signing on behalf of claimant(s)*) who, I am satisfied, is/are the person(s) named in and who executed the within instrument, and thereupon acknowledged that claimant(s) signed, sealed and delivered the same as claimant's (s') act and deed, for the purposes therein expressed.

_____
NOTARY PUBLIC

SUGGESTED NOTARIAL FOR CORPORATE OR LIMITED LIABILITY CLAIMANT:

STATE OF NEW JERSEY
COUNTY OF [ ] ss:

On this ____ day of _____ 20__, before me, the subscriber, personally appeared (*person signing on behalf of claimant(s)*) who, I am satisfied is the Secretary (*or other officer/manager/agent*) of the Corporation (*partnership or limited liability company*) named herein and who by me duly sworn/affirmed, asserted authority to act on behalf of the Corporation (*partnership or limited*

liability company) and who, by virtue of its Bylaws, or Resolution of its Board of Directors (*or partnership or operating agreement*) executed the within instrument on its behalf, and thereupon acknowledged that claimant signed, sealed and delivered same as claimant's act and deed, for the purposes herein expressed.

_____

NOTARY PUBLIC

c. A claimant electing to file a Notice of Unpaid Balance and Right to File Lien as described above need not serve a copy upon any interested party.

d. After the filing of a Notice of Unpaid Balance and Right to File Lien, any person claiming title to or an interest in or a lien upon the real property described in the Notice of Unpaid Balance and Right to File Lien, shall be deemed to have acquired said title, interest or lien with knowledge of the anticipated filing of a lien claim, and shall be subject to the terms, conditions and provisions of that lien claim within the period provided by section 6 of P.L.1993, c.318 (C.2A:44A-6) and as set forth in the Notice of Unpaid Balance and Right to File Lien. A Notice of Unpaid Balance and Right to File Lien filed under this act shall be subject to the effect of a Notice of Settlement filed pursuant to P.L.1979, c. 406 (C.46:16A-1 et seq.).

e. The Notice of Unpaid Balance and Right to File Lien shall be effective for 90 days or in the case of a residential construction contract claim for 120 days from the date of the provision of the last work, services, material or equipment delivery for which payment is claimed as set forth in paragraph 4 of the Notice of Unpaid Balance and Right to File Lien.

f. The lodging for record or filing of a Notice of Unpaid Balance and Right to File Lien shall not constitute the lodging for record or filing of a lien claim nor does it extend the time for the lodging for record of a lien claim, in accordance with this act.

g. Failure to file a Notice of Unpaid Balance and Right to File Lien shall not affect the claimant's lien rights arising under this act, to the extent that no conveyance, lease or mortgage of an interest in real property occurs prior to the filing of a Notice of Unpaid Balance and Right to File Lien or lien claim.

h. A Notice of Unpaid Balance and Right to File Lien may be amended by the filing of an Amended Notice of Unpaid Balance and Right to File Lien in accordance with this section.

15. Section 21 of P.L.1993, c.318 (C.2A:44A-21) is amended to read as follows:

C.2A:44A-21 Legislative findings, additional requirements for lodging for record of lien on residential construction.

21. a. The Legislature finds that the ability to sell and purchase residential housing is essential for the preservation and enhancement of the economy of the State of New Jersey and that while there exists a need to provide contractors, subcontractors and suppliers with statutory benefits to enhance the collection of money for goods, services and materials provided for the construction of residential housing in the State of New Jersey, the ability to have a stable marketplace in which families can acquire homes without undue delay and uncertainty and the corresponding need of lending institutions in the State of New Jersey to conduct their business in a stable environment and to lend money for the purchase or finance of home construction or renovations requires that certain statutory provisions as related to the lien benefits accorded to contractors, subcontractors and suppliers be modified. The Legislature further finds that the construction of residential housing generally involves numerous subcontractors and suppliers to complete one unit of housing and that the multiplicity of lien claims and potential for minor monetary disputes poses a serious impediment to the ability to transfer title to residential real estate expeditiously. The Legislature further finds that the purchase of a home is generally one of the largest expenditures that a family or person will make and that there are a multitude of other State and federal statutes and regulations, including "The New Home Warranty and Builders' Registration Act," P.L.1977, c.467 (C.46:3B-1 et seq.) and "The Planned Real Estate Development Full Disclosure Act," P.L.1977, c.419 (C.45:22A-21 et seq.), which afford protection to consumers in the purchase and finance of their homes, thereby necessitating a different treatment of residential real estate as it relates to the rights of contractors, suppliers and subcontractors to place liens on residential real estate. The Legislature declares that separate provisions concerning residential construction will provide a system for balancing the competing interests of protecting consumers in the purchase of homes and the contract rights of contractors, suppliers and subcontractors to obtain payment for goods and services provided.

b. The filing of a lien for work, services, material or equipment furnished pursuant to a residential construction contract shall be subject to the following additional requirements:

(1) As a condition precedent to the filing of any lien arising under a residential construction contract, a lien claimant shall first file a Notice of Unpaid Balance and Right to File Lien by lodging for record the Notice within 60 days following the last date that work, services, material or equipment were provided for which payment is claimed in accordance with subsection b. of section 20 of P.L.1993, c.318 (C.2A:44A-20), and comply with the remainder of this section.

(2) Upon its lodging for record, a Notice of Unpaid Balance and Right to File Lien, shall be served in accordance with the provisions for the service of lien claims in section 7 of P.L.1993, c.318 (C.2A:44A-7).

(3) Unless the parties have otherwise agreed in writing to an alternative dispute resolution mechanism, within 10 days from the date the Notice of Unpaid Balance and Right to File Lien is lodged for record, the lien claimant shall also serve a demand for arbitration and fulfill all the requirements and procedures of the American Arbitration Association to institute an expedited proceeding before a single arbitrator designated by the American Arbitration Association. The demand for arbitration may be served in accordance with the provisions for the service of lien claims in section 7 of P.L.1993, c.318 (C.2A:44A-7) along with: (a) a copy of the completed and signed Notice of Unpaid Balance and Right to File Lien; and (b) proof by affidavit that the Notice of Unpaid Balance and Right to File Lien has been lodged for record.

If not yet provided at the time of service of the demand for arbitration, a copy of the Notice of Unpaid Balance and Right to File Lien marked "filed" by the clerk's office shall be provided by the claimant to the parties and the arbitrator, as a condition precedent to the issuance of an arbitrator's determination.

All arbitrations of Notices of Unpaid Balance and Right to File Lien pertaining to the same residential construction shall be determined by the same arbitrator, whenever possible. The claimant, owner, or any other party may also request consolidation in a single arbitration proceeding of the claimant's Notice of Unpaid Balance and Right to File Lien with any other Notice of Unpaid Balance and Right to File Lien not yet arbitrated but lodged for record by a potential lien claimant whose name was provided in accordance with section 37 of P.L.1993, c.318 (C.2A:44A-37). The request shall be made in the demand for arbitration or, in the case of a request by a person other than the claimant, by letter to the arbitrator assigned to the arbitration or, if none has been assigned, to the appropriate arbitration administrator, within five days of when the demand for arbitration is served.

The arbitrator shall grant or deny a request for a consolidated arbitration proceeding at the arbitrator's discretion.

(4) Upon the closing of all hearings in the arbitration, the arbitrator shall make the following determinations: (a) whether the Notice of Unpaid Balance and Right to File Lien was in compliance with section 20 of P.L.1993, c.318 (C.2A:44A-20) and whether service was proper under section 7 of P.L.1993, c.318 (C.2A:44A-7); (b) the earned amount of the contract between the owner and the contractor in accordance with section 9 of P.L.1993, c.318 (C.2A:44A-9); (c) the validity and amount of any lien claim which may be filed pursuant to the Notice of Unpaid Balance and Right to File Lien; (d) the validity and amount of any liquidated or unliquidated setoffs or counterclaims to any lien claim which may be filed; and (e) the allocation of costs of the arbitration among the parties. When making the above determination, the arbitrator shall also consider all determinations made by that arbitrator in any earlier arbitration proceeding pertaining to the same residential construction.

(5) If the amount of any setoffs or counterclaims presented in the arbitration cannot be determined by the arbitrator in a liquidated amount, the arbitrator, as a condition precedent to the filing of the lien claim, shall order the lien claimant to post a bond, letter of credit or funds with an attorney-at-law of New Jersey, or other such person or entity as may be ordered by the arbitrator in such amount as the arbitrator shall determine to be 110% of the approximate fair and reasonable value of such setoffs or counterclaims, but in no event greater than the amount of the lien claim which may be filed. This 110% limitation for any bond, letter of credit or funds shall also apply to any alternative dispute resolution mechanism to which the parties may agree. When making the above determinations, the arbitrator shall consider all determinations made by that arbitrator in any earlier arbitration proceeding pertaining to the same residential construction.

(6) The arbitrator shall make such determinations set forth in paragraphs (4) and (5) of this subsection and the arbitration proceeding shall be completed within 30 days of receipt of the lien claimant's demand for arbitration by the American Arbitration Association unless no response is filed, in which case the arbitrator shall make such determinations and the arbitration proceeding shall be deemed completed within 7 days after the time within which to respond has expired. These time periods for completion of the arbitration shall not be extended unless otherwise agreed to by the parties and approved by the arbitrator. If an alternative dispute mechanism is alternatively agreed to between the parties, such determination shall be made as promptly as possible making due allowance for all time limits and

procedures set forth in this act. The arbitrator shall resolve a dispute regarding the timeliness of the demand for arbitration.

(7) Any contractor, subcontractor or supplier whose interests are affected by the filing of a Notice of Unpaid Balance and Right to File Lien under this act shall be permitted to join in such arbitration; but the arbitrator shall not determine the rights or obligations of any such parties except to the extent those rights or obligations are affected by the lien claimant's Notice of Unpaid Balance and Right to File Lien.

(8) Upon determination by the arbitrator that there is an amount which, pursuant to a valid lien shall attach to the improvement, the lien claimant shall, within 10 days of the lien claimant's receipt of the determination, lodge for record such lien claim in accordance with section 8 of P.L.1993, c.318 (C.2A:44A-8) and furnish any bond, letter of credit or funds required by the arbitrator's decision. The failure to lodge for record such a lien claim, or furnish the bond, letter of credit or funds, within the 10-day period, shall cause any lien claim to be invalid.

(9) Except for the arbitrator's determination itself, any such determination shall not be considered final in any legal action or proceeding, and shall not be used for purposes of collateral estoppel, res judicata, or law of the case to the extent applicable. Any finding of the arbitrator pursuant to this act shall not be admissible for any purpose in any other action or proceeding.

(10) If either the lien claimant or the owner or community association in accordance with section 3 of P.L.1993, c.318 (C.2A:44A-3) is aggrieved by the arbitrator's determination, then the aggrieved party may institute a summary action in the Superior Court, Law Division, for the vacation, modification or correction of the arbitrator's determination. The arbitrator's determination shall be confirmed unless it is vacated, modified or corrected by the court. The court shall render its decision after giving due regard to the time limits and procedures set forth in this act and shall set time limits for lodging for record the lien claim if it finds, contrary to the arbitrator's determination, that the lien claim is valid or the 10-day requirement for lodging for record required by paragraph (8) of this subsection has expired.

(11) In the event a Notice of Unpaid Balance and Right to File Lien is filed and the owner conveys its interest in real property to another person before a lien claim is filed, then prior to or at the time of conveyance, the owner may make a deposit with the county clerk where the improvement is located, in an amount no less than the amount set forth in the Notice of Unpaid Balance and Right to File Lien. For any deposit made with the county clerk, the county clerk shall discharge the Notice of Unpaid Balance and

Right to File Lien or any related lien claim against the real property for which the deposit has been made. After the issuance of the arbitrator's determination set forth in paragraphs (4) and (5) of this subsection, any amount in excess of that determined by the arbitrator to be the amount of a valid lien claim shall be returned forthwith to the owner who has made the deposit. The balance shall remain where deposited unless the lien claim has been otherwise paid, satisfied by the parties, forfeited by the claimant, invalidated pursuant to paragraph (8) of this subsection or discharged under section 33 of P.L.1993, c.318 (C.2A:44A-33). Notice shall be given by the owner in writing to the lien claimant within five days of making the deposit.

(12) Solely for those lien claims arising from a residential construction contract, if a Notice of Unpaid Balance and Right to File Lien is determined to be without basis, the amount of the Notice of Unpaid Balance and Right to File Lien is significantly overstated, or the Notice of Unpaid Balance and Right to File Lien is not lodged for record: (a) in substantially the form, (b) in the manner, or (c) at a time in accordance with this act, then the claimant shall be liable for all damages suffered by the owner or any other party adversely affected by the Notice of Unpaid Balance and Right to File Lien, including all court costs, reasonable attorneys' fees and legal expenses incurred.

(13) If the aggregate sum of all lien claims attaching to any real property that is the subject of a residential construction contract exceeds the amount due under a residential purchase agreement, less the amount due under any previously recorded mortgages or liens other than construction liens, then upon entry of judgment of all such lien claims, each lien claim shall be reduced pro rata. Each lien claimant's share then due shall be equal to the monetary amount of the lien claim multiplied by a fraction in which the denominator is the total monetary amount of all valid claims on the owner's interest in real property against which judgment has been entered, and the numerator is the amount of each particular lien claim for which judgment has been entered. The amount due under the residential purchase agreement shall be the net proceeds of the amount paid less previously recorded mortgages and liens other than construction liens and any required recording fees.

16. Section 22 of P.L.1993, c.318 (C.2A:44A-22) is amended to read as follows:

C.2A:44A-22 Priority of mortgages over liens, conditions.

22. a. Every mortgage recorded before the filing of a lien claim or the filing of a Notice of Unpaid Balance and Right to File Lien in accordance

with section 20 of P.L.1993, c.318 (C.2A:44A-20), shall have priority as to the land or other interest in real property described and any improvement wholly or partially erected or thereafter to be erected, constructed or completed thereon, over any lien established by virtue of P.L.1993, c.318 (C.2A:44A-1 et al.) to the extent that:

(1) the mortgage secures funds that have been advanced or the mortgagee is obligated to advance to or for the benefit of the mortgagor before the filing of the lien claim or Notice of Unpaid Balance and Right to File Lien in accordance with section 20 of P.L.1993, c.318 (C.2A:44A-20); or

(2) the mortgage secures funds advanced after the filing of a lien claim or the filing of a Notice of Unpaid Balance and Right to File Lien in accordance with section 20 of P.L.1993, c.318 (C.2A:44A-20), and the funds are applied in accordance with paragraphs (1) through (7) of subsection b. of this section.

b. Every mortgage recorded after the filing of a lien claim or the filing of a Notice of Unpaid Balance and Right to File Lien in accordance with section 20 of P.L.1993, c.318 (C.2A:44A-20), shall have priority as to the land or other interest in real property described and any improvement wholly or partially erected or thereafter to be erected, constructed or completed thereon, over any lien established by virtue of this act to the extent that the mortgage secures funds which have been applied to:

(1) The payments of amounts due to any claimants who have filed a lien claim or a Notice of Unpaid Balance and Right to File Lien;

(2) The payment to or the securing of payment by, the party against whose interest the lien claim is filed of all or part of the purchase price of the land covered thereby and any subsequent payment made for the improvements to the land, including but not limited to any advance payment of interest to the holder of the mortgage as required by the mortgagee as a condition of the loan;

(3) The payment of any valid lien or encumbrance which is, or can be established as, prior to a lien provided for by this act;

(4) The payment of any tax, assessment or other State or municipal lien or charge due or payable at the time of, or within 60 days after, such payment, as required by the mortgagee as a condition of the loan;

(5) The payment of any premium, counsel fee, consultant fee, interest or financing charges, or other cost related to the financing, any of which are required by the lender to be paid by the owner, provided that the total of same shall not be in excess of 10 percent of the principal amount of the mortgage securing the loan upon which they are based;

(6) The payment to the owner of that portion of the purchase price of the real property on which the improvements are made or to be made which have previously been paid by the owner, exclusive of any interest or any other carrying costs of such real property, provided, however, that at the time of the payment of such funds to the owner, the budget upon which the loan was made indicated that the amount of the loan is not less than the total of: (a) the purchase price of the real property, (b) the cost of constructing the improvements, and (c) any cost listed in paragraphs (3), (4), and (5) of subsection b. of this section; or

(7) An escrow in an amount not to exceed 150% of the amount necessary to secure payment of charges described in paragraphs (1), (3), (4) and (5) of subsection b. of this section.

c. Nothing in P.L.1993, c.318 (C.2A:44A-1 et al.) shall be deemed to supersede the mortgage priority provisions of R.S.46:9-8 or diminish the effect of a Notice of Settlement filed pursuant to P.L.1979, c.406 (C.46:16A-1 et seq.).

17. Section 23 of P.L.1993, c.318 (C.2A:44A-23) is amended to read as follows:

C.2A:44A-23 Payment of claims, pro rata payment.

23. a. The amount due a lien claimant shall be paid only after the lien claim has been established by judgment, or, in the case of an execution sale, only to those lien claimants whose lien claims were filed before application was made to the court for distribution of the sale proceeds. All lien claims established by judgment are valid claims that shall be concurrent and shall be paid as provided in subsection c. of this section.

b. The sheriff or other officer conducting an execution sale authorized by section 24 of P.L.1993, c.318 (C.2A:44A-24) shall pay the proceeds to the clerk of the Superior Court and the Superior Court shall provide proper disposition of sale proceeds to the persons entitled thereto under P.L.1993, c.318 (C.2A:44A-1 et al.).

c. The Superior Court shall order the distribution of a lien fund, after its calculation in accordance with section 9 of P.L.1993, c.318 (C.2A:44A-9), in the following manner:

(1) If there are first tier lien claimants, the lien fund shall be allocated in amounts equal to their valid claims. If the total of those claims would exceed the maximum liability of the owner or community association as provided by section 9 of P.L.1993, c.318 (C.2A:44A-9), the allocations shall be reduced pro rata so as not to exceed that maximum liability;

(2) From the allocation to each first tier lien claimant, amounts shall be allocated equal to the valid claims of second tier lien claimants whose claims derive from contracts with that first tier lien claimant. If the total of the claims is less than the allocation to that first tier lien claimant, the first tier lien claimant shall be paid the balance. If the total of the claims exceeds the allocation to that first tier lien claimant, the second tier claimants' allocations shall be reduced pro rata so as not to exceed that first tier lien claimant allocation;

(3) From the allocation to each second tier lien claimant, amounts shall be allocated equal to the valid claims of third tier lien claimants whose claims derive from contracts with that second tier lien claimant. If the total of the claims is less than the allocation to that second tier claimant, the second tier lien claimant shall be paid the balance. If the total of the claims exceeds the allocation to that second tier lien claimant, the allocation to the third tier lien claimants shall be reduced pro rata so as not to exceed that second tier lien claimant allocation;

(4) If there are no first tier lien claimants, the lien fund for second tier lien claimants shall be allocated in amounts equal to that second tier's valid claims. If the total of the claims of any group of second tier lien claimants exceeds the lien fund for that group of claimants as provided by section 9 of P.L.1993, c.318 (C.2A:44A-9), the allocations shall be reduced pro rata so as not to exceed that lien fund; and

(5) If there are no first or second tier lien claimants, the lien fund for third tier lien claimants shall be allocated in amounts equal to that third tier's valid claims. If the total of the claims of any group of third tier lien claimants exceeds the lien fund for that group of claimants as provided by section 9 of P.L.1993, c.318 (C.2A:44A-9), the allocations shall be reduced pro rata so as not to exceed that lien fund.

C.2A:44A-24.1 Lien claims enforced by suit.

18. a. Subject to the requirements of section 14 of P.L.1993, c.318 (C.2A:44A-14), and in the case of lien claims arising from residential construction contracts the additional requirements of sections 20 and 21 of P.L.1993, c.318 (C.2A:44A-20 and 2A:44A-21), a lien claim arising under P.L.1993, c.318 (C.2A:44A-1 et al.) shall be enforced by a suit commenced in the Superior Court within one year of the date of the last provision of work, services, material or equipment, payment for which the lien claim was filed. Venue shall be laid in the county in which the real property affected by the lien claim is located.

b. A lien claimant shall join as party defendants the owner or community association, if applicable, in accordance with section 3 of P.L.1993, c.318 (C.2A:44A-3), contractor or subcontractor alleged to have failed to make payments for which the lien claim has been filed and any other person having an interest in the real property that would be adversely affected by the judgment. The court shall order joinder of necessary parties or determine if it is appropriate for the suit to proceed if party defendants are not joined.

c. The court shall stay the suit to the extent that the lien claimant's contract or the contract of another party against whose account the lien claim is asserted provides that any disputes pertaining to the validity or amount of a lien claim are subject to arbitration or other dispute resolution mechanism.

d. Upon commencement of the suit, the lien claimant shall cause a Notice of Lis Pendens to be filed in the office of the county clerk or register pursuant to N.J.S.2A:15-6 et seq.

e. A party to a suit to enforce a lien claim shall be entitled to assert any defense available to any other party in contesting the amount for which a claimant seeks to have the lien reduced to judgment.

f. The judgment to be entered in a suit to enforce a lien claim shall (1) establish the amount due to the lien claimant; and (2) direct the public sale by the sheriff or other such officer as the court may direct of the real property and improvement affected by the lien. The proceeds of the sale shall be distributed in accordance with section 23 of P.L.1993, c.318 (C.2A:44A-23). If funds are realized at the sale in an amount greater than the lien fund, the surplus funds shall be distributed in accordance with law.

g. Nothing in this act shall bar recovery of money damages pursuant to a lien claim arising under P.L.1993, c.318 (C.2A:44A-1 et al.).

h. A judgment obtained against a community association that is unpaid may be enforced by assessment against unit owners as they would be assessed for any other common expense, after reasonable notice, and in a manner directed by the court. In ordering assessments, the court shall be guided by the master deed, bylaws or other document governing the association. A judgment shall not be enforced by the sale of any common elements, common areas or common buildings or structures of a real property development.

i. Upon resolution of the suit other than by the entry of final judgment in favor of the plaintiff in accordance with subsection f. of this section, a cancellation or discharge of lis pendens should be filed, by the party

who filed the enforcement action, in the office of the county clerk or register where the notice of lis pendens is filed.

19. Section 25 of P.L.1993, c.318 (C.2A:44A-25) is amended to read as follows:

C.2A:44A-25 Issuance of writ of execution.

25. If judgment in an action to enforce a lien claim under this act is entered in favor of the lien claimant, a writ of execution may issue thereon, in accordance with the judgment.

20. Section 30 of P.L.1993, c.318 (C.2A:44A-30) is amended to read as follows:

C.2A:44A-30 Filing of certificate to discharge lien claim of record.

30. a. When a lien claim has been filed and the claim has been paid, satisfied or settled by the parties or forfeited by the claimant, the claimant or claimant's successor in interest or attorney shall, within 30 days of payment, satisfaction or settlement, or within 7 days of demand by any interested party, file with the county clerk a certificate, duly acknowledged or proved, directing the county clerk to discharge the lien claim of record, which certificate shall contain:

(1) The date of filing the lien claim;

(2) The book and page number endorsed thereon;

(3) The name of the owner of the land, or the community association, if applicable, named in the notice;

(4) The location of the property; and

(5) The name of the person for whom the work, services, equipment or materials was provided.

b. If the claimant shall fail or refuse to file this certificate, as set forth in subsection a. of this section, then any party in interest may proceed in a summary manner by filing an order to show cause in accordance with the Rules of Court adopted by the Supreme Court of New Jersey. A judge of the Superior Court may, upon good cause being shown, and absent receipt of written objections and grounds for same, order the lien claim discharged on the return date of the order to show cause. The county clerk shall thereupon attach the certificate or order to the original notice of lien claim on file and shall note on the record thereof "discharged by certificate" or "discharged by court order," as the case may be and any lien foreclosure action shall be dismissed with prejudice.

c. Any party in interest may proceed to discharge a lien claim on the ground that it is without factual basis by filing an order to show cause in the same manner as set forth in subsection b. of this section.

d. In those circumstances in which the lien claim has been paid in full, the lien claimant has failed to file a lien claim discharge pursuant to this section, and at least 13 months have elapsed since the date of the lien claim, the owner or community association may, in accordance with section 33 of P.L.1993, c.318 (C.2A:44A-33) submit for filing a duly acknowledged discharge certificate substantially in the form provided by subsection a. of this section accompanied by an affidavit setting forth the circumstances of payment as set forth below:

OWNER (OR COMMUNITY ASSOCIATION) AFFIDAVIT OF PAYMENT TO DISCHARGE LIEN CLAIM

TO THE CLERK, COUNTY OF

The undersigned, being duly sworn upon the undersigned's oath, avers as follows:

1. I am an owner of real property located at (*address of property subject to lien*), in that certain tract or parcel of land and premises described as Block ____, Lot ____, on the tax map of the (*municipality*) of _____, County of _____, State of New Jersey. (In the case of a community association, I am an (*officer/manager/agent*) of the community association, (*name of community association*) for property located at (*location of property development*).)

2. On or about (*date*), I caused to be sent to *(name of contractor or subcontractor to whom payment was made)*, located at (address designated for payment by the filed lien claim form), the final payment in the amount of (*$____*) in full satisfaction of a certain lien claim dated (*date*) which was filed by (*name of lien claimant*) against the real property designated in paragraph 1, on (*date*) in the office of the county clerk of the County of (*name of county*) in Construction Lien Book ___, Page ____.

3. At least 13 months have elapsed since the date of the lien claim and 90 days before filing this affidavit, I mailed or caused to be mailed by certified mail to the last known address of the lien claimant as set forth in the filed lien claim form written notice of my intention to file a discharge certificate with respect to the lien claim. To the best of my knowledge and belief, no written communication denying or disputing payment in full of the lien claim has been received from the lien claimant (*name*).

4. Wherefore, the undersigned directs the county clerk of the County of (*name of county*) to cause to be filed the discharge certificate accompanying this affidavit, and further directs the county clerk to cause a notation of the discharge of the lien to be endorsed upon the margin of the record of the original lien claim, stating that the discharge is filed, and setting forth the date, book and page number of the filed discharge.

Name of Owner/Community Association
Signed _____
(*Type or Print Name and Title*)

NOTARIAL FOR INDIVIDUAL OWNER

STATE OF NEW JERSEY
COUNTY OF [ ] ss:

On this ____ day of _____ 20___, before me, the subscriber, personally appeared (*name of owner/community association*) who, I am satisfied, is/are the person(s) named in and who executed the within instrument, and thereupon acknowledged that the owner/community association signed, sealed and delivered the same as the owner's/community association's act and deed, for the purposes therein expressed.

_____
NOTARY PUBLIC

NOTARIAL FOR CORPORATE OR LIMITED LIABILITY OWNER/COMMUNITY ASSOCIATION:

STATE OF NEW JERSEY
COUNTY OF (_____) ss:

On this ____ day of _____ 20__, before me, the subscriber, personally appeared (*person signing on behalf of owner/community association*) who, I am satisfied is the Secretary *(or other officer/manager/agent)* of the Corporation *(partnership or limited liability company)* named herein and who by me duly sworn/affirmed, asserted authority to act on behalf of the Corporation (*partnership or limited liability company*) and who, by virtue of its By-laws, or Resolution of its Board of Directors (*or partnership or operating agreement*) executed the within instrument on its behalf, and thereupon ac-

knowledged that the owner/community association signed, sealed and delivered same as owner's/community association's act and deed, for the purposes herein expressed.

_____

NOTARY PUBLIC

e. Any lien claimant who fails to discharge a lien claim of record pursuant to this section shall be liable for all court costs, and reasonable legal expenses, including, but not limited to, attorneys' fees, incurred by the owner, community association, the contractor, or subcontractor, or any combination of owner, community association, contractor and subcontractor, as applicable, to discharge or obtain the discharge of the lien, and in addition thereto, the court shall enter judgment against the claimant for damages to any or all of the parties adversely affected by the failure to discharge the lien.

f. Upon discharge of record in all cases, the party who filed the enforcement action shall cause the Notice of Lis Pendens to be cancelled or discharged of record pursuant to N.J.S.2A:15-6 et seq. Any party who filed the enforcement action who fails to cancel or discharge the lis pendens of record pursuant to this section shall be liable for all court costs, and reasonable legal expenses, including but not limited to, attorneys' fees, incurred by the owner, community association, the contractor, or subcontractor, or any other interested party, or any combination thereof, as applicable, to obtain the cancellation or discharge of the lis pendens, and in addition thereto, the court shall enter judgment against the claimant for damages to any or all of the parties adversely affected by the failure to cancel or discharge the lis pendens.

21. Section 31 of P.L.1993, c.318 (C.2A:44A-31) is amended to read as follows:

C.2A:44A-31 Filing of surety bond, deposit.

31. a. When a lien claim is filed against any improvement and land under this act, the owner, community association in accordance with section 3 of P.L.1993, c.318 (C.2A:44A-3), contractor or subcontractor may execute and file with the proper county clerk a bond in favor of the lien claimant, with a surety company, duly authorized to transact business in this State, as surety thereon in an amount equal to 110% of the amount claimed by the lien claimant. The amount of the bond shall be equal to

110% of the amount claimed by the lien claimant but in the case of a lien claim arising from a residential construction contract, no greater than the earned amount of the contract between the owner and the contractor as determined by the arbitrator in accordance with paragraph (4) of subsection b. of section 21 of P.L.1993, c.318 (C.2A:44A-21). The bond shall be filed in accordance with the language set forth in subsection d. of this section, along with payment in the amount of $25, conditioned upon the payment of any judgment and costs that may be recovered by the lien claimant under this claim. Any form of bond proffered that contains language inconsistent with the language set forth in subsection d. of this section shall be the basis for a cause of action to strike such language from the form of bond.

b. As an alternative, the owner, community association, contractor or subcontractor may deposit with the clerk of the Superior Court of New Jersey, funds constituting an amount equal to 110% of the amount claimed by the lien claimant, but in the case of a lien claim arising from a residential construction contract, no greater than the earned amount of the contract between the owner and the contractor as determined by the arbitrator in accordance with paragraph (4) of subsection b. of section 21 of P.L.1993, c.318 (C.2A:44A-21). The deposit shall be made along with payment in the amount of $25, conditioned upon the payment of any judgment and costs that may be recovered by the lien claimant under this claim. The deposit may be made without the necessity of commencing any legal action. The written receipt provided by the court clerk for the deposit made may be filed with the county clerk as evidence of that deposit.

c. Any surety bond filed with the county clerk under this section shall be discharged, and any deposit with the clerk of the Superior Court shall be returned to the depositor, without court order, upon presentment by the owner, community association, contractor or subcontractor of any of the following:

(1) a duly acknowledged certificate as provided in paragraph (2) or (3) of subsection a. of section 33 of P.L.1993, c.318 (C.2A:44A-33);

(2) an order of discharge as provided in paragraph (4) of subsection a. of section 33 of P.L.1993, c.318 (C.2A:44A-33);

(3) a judgment of dismissal or other final judgment against the lien claimant; or

(4) a true copy of a Stipulation of Dismissal, with prejudice, executed by the lien claimant or its representative in any action to foreclose the lien claim which is subject to the surety bond or deposit.

d. The bond shall be filed in substantially the following form:

(Name of Bond Company)
(Bond No.) Bond Amount $_____

BOND DISCHARGING CONSTRUCTION LIEN

WHEREAS, on the (*date*), (*name of claimant*) (*hereinafter "Lienor"*) filed a Construction Lien for the sum of (*amount written out*) _____ ($_____), in the office of the Clerk of the County of (*name of county where lien claim was filed*), (*hereinafter "Clerk"*), against the real property of owner, (*name of owner*), or community association (*or name of community association*) and the tenancy interest of Lot (#), Block (#), (*address of property or name and location of the property development in the case of a community association*) on the Tax Map of Township of (*name of municipality*), County of (*name of county*), State of New Jersey as more fully set forth in the notice of lien, a true copy of which is attached hereto, and which lien was filed (*date lien claim was filed*) in book (#), page (#).

WHEREAS, in accordance with the "Construction Lien Law," P.L.1993, c.318 (C.2A:44A-1 et al.), the Principal is permitted to file a bond for 110% of the lien amount, which would be a total bond penalty of (*amount written out*) ($ _____) (*hereinafter "Penal Sum"*).

NOW THEREFORE, in consideration of the discharge of said lien by the Clerk, the Principal and (*name of bond company*) as surety, having an office at (*address of bond company*) and authorized to do business as a surety, do hereby pursuant to the statute provided, in such case made and jointly and severally undertake and become bound to the Clerk in an amount not exceeding the Penal Sum, ($_____) conditioned for the payment of any and all judgments that may be rendered against said property in favor of the Lienor, its successors or assigns, in any action or proceedings to enforce the alleged lien as described.

Sealed with our seal and dated the ____day of (*month*), (*year*)

Witness:_____ (*Name of principal*)
By:(*Signature*)
Title:(*Printed name and title of signatory*)

Witness:_____ (*Name of Bond Company*)
By: (*Signature*)
Title:(*Printed name and title of signatory*)

22. Section 33 of P.L.1993, c.318 (C.2A:44A-33) is amended to read as follows:

C.2A:44A-33 Discharge of record of lien claim.

33. a. A lien claim shall be discharged of record by the county clerk:

(1) Upon the execution and filing with the county clerk of a surety bond, or the deposit of funds with the clerk of the Superior Court of New Jersey, in favor of the claimant in an amount equal to 110% of the amount of the lien claim; or

(2) Upon receipt of a duly acknowledged certificate, discharging the lien claim from the claimant having filed the lien claim, or the claimant's successor in interest, or attorney; or

(3) Pursuant to the filing of an owner's or community association's discharge certificate in accordance with section 30 of P.L.1993, c.318 (C.2A:44A-30), provided that 90 days prior to the filing of the affidavit, substantially in the form set forth in section 30 of P.L.1993, c.318 (C.2A:44A-30), the lien claimant is notified by certified mail at the lien claimant's last known address of the owner's or community association's intent to file a discharge certificate and no written communication from the lien claimant denying or disputing payment in full of the lien claim is filed with the county clerk and served on the owner or community association; or

(4) Pursuant to an order of discharge by the court.

b. When judgment of dismissal or final other judgment against the lien claimant is entered in an action to enforce the lien claim under this act and no appeal is taken within the time allowed for an appeal, or if an appeal is taken within the time allowed for an appeal, or if an appeal is taken and finally determined against the lien claimant, the court before which the judgment was rendered, upon application and written notice to the lien claimant as the court shall direct, shall order the county clerk to enter a discharge of the lien claim.

c. If an appeal is taken by the claimant, the claim shall be discharged unless the claimant posts a bond, in an amount to be determined by the court, to protect the owner or community association from the reasonable costs, expenses and damages which may be incurred by virtue of the continuance of the lien claim encumbrance.

d. Upon discharge of record of the lien claim, unless the action for enforcement also involves claims, by way of counterclaim, cross claim or interpleader, arising out of or related to the improvements that are the subject of the lien claim in which the owner or community association is an interested party, the court shall also order that the owner or community as-

sociation no longer be a party to an action to enforce the lien claim, and the surety issuing the bond shall be added as a necessary party.

e. Discharge of record of a lien claim will automatically discharge of record the Notice of Unpaid Balance and Right to File Lien filed in connection therewith.

23. Section 35 of P.L.1993, c.318 (C.2A:44A-35) is amended to read as follows:

C.2A:44A-35 Discharge, subordination, release of lien claim.

35. A discharge, subordination or release of a lien claim or Notice of Unpaid Balance and Right to File Lien shall be duly acknowledged or proved, and recorded in a properly indexed book for that purpose. A notation of the record of the discharge of a lien claim or Notice of Unpaid Balance and Right to File Lien shall be endorsed upon the margin of the record in the book where the original lien or Notice of Unpaid Balance and Right to File Lien is recorded stating that the discharge is filed, giving the date of filing and setting forth the book and the page number where the discharge, or receipt of payment of the lien or order or owner's or community association's discharge certificate discharging the lien, is recorded.

24. Section 37 of P.L.1993, c.318 (C.2A:44A-37) is amended to read as follows:

C.2A:44A-37 Furnishing of list of subcontractors, suppliers.

37. a. If required in a contract or upon written request from an owner or community association to a contractor, a subcontractor, or both, the contractor or subcontractor shall, within 10 days, provide the owner or community association with an accurate and full list of the names and addresses of each subcontractor and supplier who may have a right to file a lien pursuant to this act.

b. If required in a contract or upon written request from a contractor to a subcontractor, the subcontractor shall, within 10 days, provide the contractor with an accurate and full list of the names and addresses of each subcontractor or supplier who may have a right to file a lien pursuant to this act.

c. Any list provided pursuant to subsection a. or b. of this section shall be verified under oath by the person providing same.

d. Reliance upon the verified list shall be prima facie evidence establishing the bona fides of payment made in reliance thereon and shall constitute an absolute defense to any claim that the party making such payment

should have made additional inquiry to determine the identity of potential claimants.

e. Any person to whom a written request has been made pursuant to subsection a. or b. of this section who does not provide a list in compliance with this section shall be liable in damages to: (1) the party requesting the list; or (2) the owner or community association, including, but not limited to, court costs and the reasonable legal expenses, including attorneys' fees, incurred by any or all of them, in defending or causing the discharge of a lien claim asserted by a party whose name is omitted from the list.

Repealer.

25. The following sections are repealed:
Section 16 of P.L.1993, c.318 (C.2A:44A-16);
Section 19 of P.L.1993, c.318 (C.2A:44A-19);
Section 24 of P.L.1993, c.318 (C.24:44A-24);
Section 26 of P.L.1993, c.318 (C.2A:44A-26);
Section 28 of P.L.1993, c.318 (C.2A:44A-28); and
Section 29 of P.L.1993, c.318 (C.2A:44A-29).

26. This act shall take effect immediately.

Approved January 5, 2011.

CHAPTER 120

AN ACT establishing the "Interstate Insurance Product Regulation Compact," and supplementing subtitle 3 of Title 17B of the New Jersey Statutes.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

C.17B:37-1 Short title, findings, declarations.

1. a. This act shall be known and may be cited as the "Interstate Insurance Product Regulation Compact."

b. The Legislature finds and declares that the purposes of this act, through means of joint and cooperative action among the compacting states, are to:

(1) promote and protect the interests of consumers of individual and group annuity, life insurance, disability income, and long-term care insurance products;

(2) develop uniform standards for insurance products covered under this act;

(3) establish a central clearinghouse to receive and provide prompt review of insurance products covered under the compact and, in certain cases, advertisements related thereto, submitted by insurers authorized to do business in one or more compacting states;

(4) give appropriate regulatory approval to those product filings and advertisements satisfying the applicable uniform standard;

(5) improve coordination of regulatory resources and expertise between state insurance departments regarding the setting of uniform standards and the review of insurance products covered under the compact;

(6) create the Interstate Insurance Product Regulation Commission; and

(7) perform these and any other related functions as may be consistent with the State's regulation of the business of insurance.

C.17B:37-2 Definitions relative to the "Interstate Insurance Product Regulation Compact."

2. For the purposes of this act:

"Advertisement" means any material designed to create public interest in an insurance product, or induce the public to purchase, increase, modify, reinstate, borrow on, surrender, replace or retain a policy, as more specifically defined in the rules and operating procedures of the Interstate Insurance Product Regulation Commission established by section 3 of this act.

"Bylaws" mean those bylaws established by the Interstate Insurance Product Regulation Commission for its governance, or for directing or controlling the commission's actions or conduct.

"Commission" means the Interstate Insurance Product Regulation Commission established by section 3 of this act.

"Commissioner" means the chief insurance regulatory official of a state including, but not limited to the commissioner, superintendent, director or administrator.

"Compact" means the "Interstate Insurance Product Regulation Compact" established by this act.

"Compacting state" means any state which has enacted this or similar compact legislation and which has not withdrawn or been terminated pursuant to section 14 of this act.

"Domiciliary state" means the state in which an insurer is incorporated or organized; or, in the case of an alien insurer, its state of entry.

"Insurer" means any entity licensed by a state to issue contracts of insurance for any of the lines of insurance covered by this act.

"Member" means the person chosen by a compacting state as its representative to the commission, or his designee.

"Non-compacting state" means any state which is not a compacting state.

"Operating procedures" means procedures promulgated by the commission implementing a rule, uniform standard, or a provision of this act.

"Product" means the form of a policy or contract, including any application, endorsement, or related form which is attached to and made a part of the policy or contract, and any evidence of coverage or certificate, for an individual or group annuity, life insurance, disability income, or long-term care insurance product that an insurer is authorized to issue.

"Rule" means a statement of general or particular applicability and future effect promulgated by the commission, including a uniform standard developed pursuant to section 7 of this act, designed to implement, interpret, or prescribe law or policy, or describing the organization, procedure, or practice requirements of the commission, which shall have the force and effect of law in the compacting states.

"State" means any state, district, or territory of the United States of America.

"Third party filer" means an entity that submits a product filing to the commission on behalf of an insurer.

"Uniform standard" means a standard adopted by the commission for a product line, pursuant to section 7 of this act, and shall include all of the product requirements in aggregate; provided, that each uniform standard shall be construed, whether express or implied, to prohibit the use of any inconsistent, misleading, or ambiguous provisions in a product, and the form of the product made available to the public shall not be unfair, inequitable, or against public policy as determined by the commission.

C.17B:37-3 "Interstate Insurance Product Regulation Commission."

3. a. The compacting states hereby create and establish a joint public agency known as the "Interstate Insurance Product Regulation Commission." Pursuant to section 4 of this act, the commission shall develop uniform standards for product lines, receive and provide prompt review of products filed therewith, and give approval to those product filings satisfying applicable uniform standards; however, it is not intended for the commission to be the exclusive entity for receipt and review of insurance product filings. Nothing in this act shall prohibit an insurer from filing its product in any state in which the insurer is licensed to conduct the business of insurance, which filing shall be subject to the laws of the state where filed.

b. The commission is a body corporate and politic, and an instrumentality of the compacting states.

c. The commission is solely responsible for its liabilities except as otherwise specifically provided in this act.

d. Venue is proper and judicial proceedings by or against the commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the commission is located.

C.17B:37-4 Powers of commission.

4. The commission shall have the following powers:

a. To promulgate rules, pursuant to section 7 of this act, which shall have the force and effect of law and shall be binding in the compacting states to the extent and in the manner provided in this act;

b. To exercise its rule-making authority and establish reasonable uniform standards for products covered under this act, and advertisements related thereto, which shall have the force and effect of law and shall be binding in the compacting states, but only for those products filed with the commission, provided, that a compacting state shall have the right to opt out of those uniform standards pursuant to section 7 of this act, to the extent and in the manner provided in this act, and, provided further, that any uniform standard established by the commission for long-term care insurance products may provide the same or greater protections for consumers as, but shall not provide less than, those protections set forth in the National Association of Insurance Commissioners' (NAIC) Long-Term Care Insurance Model Act and Long-Term Care Insurance Model Regulation, respectively, adopted as of 2001. The commission shall consider whether any subsequent amendments to the NAIC Long-Term Care Insurance Model Act or Long-Term Care Insurance Model Regulation adopted by the NAIC require amendment of the uniform standards established by the commission for long-term care insurance products;

c. To receive and review in an expeditious manner, products filed with the commission, and rate filings for disability income and long-term care insurance products, and give approval of those products and rate filings that satisfy the applicable uniform standard, which approval shall have the force and effect of law and be binding on the compacting states to the extent and in the manner provided in this act;

d. To receive and review in an expeditious manner, advertisements relating to long-term care insurance products for which uniform standards have been adopted by the commission, and give approval to all advertisements that satisfy the applicable uniform standard. For any product covered

under the compact, other than long-term care insurance products, the commission shall have the authority to require an insurer to submit all or any part of its advertisement with respect to that product for review or approval prior to use, if the commission determines that the nature of the product is such that an advertisement of the product could have the capacity or tendency to mislead the public. The actions of the commission as provided in this section shall have the force and effect of law, and shall be binding in the compacting states to the extent and in the manner provided in this act;

e. To exercise its rule-making authority and designate products and advertisements that may be subject to a self-certification process without the need for prior approval by the commission;

f. To promulgate operating procedures, pursuant to section 7 of this act, which shall be binding in the compacting states to the extent and in the manner provided in this act;

g. To bring and prosecute legal proceedings or actions in its name as the commission; however, the standing of any state insurance department to sue or be sued under applicable law shall not be affected;

h. To issue subpoenas requiring the attendance and testimony of witnesses and the production of evidence;

i. To establish and maintain offices;

j. To purchase and maintain insurance and bonds;

k. To borrow, accept, or contract for services of personnel, including, but not limited to, employees of a compacting state;

l. To hire employees, professionals, or specialists, and elect or appoint officers, and to fix their compensation, define their duties, and give them appropriate authority to carry out the purposes of this act, and determine their qualifications; and to establish the commission's personnel policies and programs relating to, among other things, conflicts of interest, rates of compensation, and qualifications of personnel;

m. To accept any appropriate donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of the same; provided, at all times the commission shall strive to avoid any appearance of impropriety;

n. To lease, purchase, accept appropriate gifts or donations of, or otherwise own, hold, improve, or use, any property, real, personal, or mixed; provided, at all times the commission shall strive to avoid any appearance of impropriety;

o. To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal or mixed;

p. To remit filing fees to compacting states as may be set forth in the bylaws, rules, or operating procedures;

q. To enforce compliance by compacting states with rules, uniform standards, operating procedures and bylaws;

r. To provide for dispute resolution among compacting states;

s. To advise compacting states on issues relating to insurers domiciled or doing business in non-compacting jurisdictions, consistent with the purposes of this act;

t. To provide advice and training to those personnel in state insurance departments responsible for product review, and to be a resource for state insurance departments;

u. To establish a budget and make expenditures;

v. To borrow money;

w. To appoint committees, including advisory committees comprising members, state insurance regulators, state legislators or their representatives, insurance industry and consumer representatives, and any other interested persons as may be designated in the bylaws;

x. To provide and receive information from, and to cooperate with, law enforcement agencies;

y. To adopt and use a corporate seal; and

z. To perform any other functions as may be necessary or appropriate to achieve the purposes of this act consistent with the state regulation of the business of insurance.

C.17B:37-5 Membership of commission; organization; bylaws.

5. a. (1) Each compacting state shall have and be limited to one member of the commission. Each member shall be qualified to serve in that capacity pursuant to the applicable law of the compacting state. Any member may be removed or suspended from office as provided by the law of the state from which he shall be appointed. Any vacancy occurring in the commission shall be filled in accordance with the laws of the compacting state wherein the vacancy exists. Nothing herein shall be construed to affect the manner in which a compacting state determines the election or appointment and qualification of its own commissioner.

(2) Each member shall be entitled to one vote and shall have an opportunity to participate in the governance of the commission in accordance with the bylaws. Notwithstanding any provision herein to the contrary, no action of the commission with respect to the promulgation of a uniform standard shall be effective unless two-thirds of the members vote in favor thereof.

(3) The commission shall, by a majority of the members, prescribe bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes, and exercise the powers, of this act, including, but not limited to:

(a) establishing the fiscal year of the commission;

(b) providing reasonable procedures for appointing and electing members, as well as holding meetings, of the management committee;

(c) providing reasonable standards and procedures for the establishment and meetings of other committees, and governing any general or specific delegation of any authority or function of the commission;

(d) providing reasonable procedures for calling and conducting meetings of the commission that consist of a majority of commission members, ensuring reasonable advance notice of each meeting, and providing for the right of citizens to attend each meeting, with enumerated exceptions designed to protect the public's interest, the privacy of individuals, and insurers' proprietary information, including trade secrets. The commission may meet in executive or closed session only after a majority of the entire membership votes to close a meeting, in whole or in part. As soon as practicable, the commission shall make public a copy of the vote to close the meeting revealing the vote of each member with no proxy votes allowed, and votes taken during the meeting;

(e) establishing the titles, duties and authority, and reasonable procedures for the election, of the officers of the commission;

(f) providing reasonable standards and procedures for the establishment of the personnel policies and programs of the commission. Notwithstanding any civil service or other similar laws of any compacting state, the bylaws shall exclusively govern the personnel policies and programs of the commission;

(g) promulgating a code of ethics to address permissible and prohibited activities of commission members and employees; and

(h) providing a mechanism for winding up the operations of the commission and the equitable disposition of any surplus funds that may exist after the termination of the compact established by this act, after the payment and reserving of all of its debts and obligations.

(4) The commission shall publish its bylaws in a convenient form and file a copy thereof, and a copy of any amendment thereto, with the appropriate agency or officer in each of the compacting states.

b. (1) A management committee comprising no more than 14 members shall be established as follows:

(a) One member from each of the six compacting states with the largest premium volume for individual and group annuities, life, disability in-

come, and long-term care insurance products, determined from the records of the NAIC for the prior year;

(b) Four members from those compacting states with at least two percent of the market based on the premium volume as described in subparagraph (a) of this paragraph, other than the six compacting states with the largest premium volume, selected on a rotating basis as provided in the bylaws; and

(c) Four members from those compacting states with less than two percent of the market, based on the premium volume as described in subparagraph (a) of this paragraph, with one selected from each of the four zone regions of the NAIC as provided in the bylaws.

(2) The management committee shall have that authority and those duties as may be set forth in the bylaws, including but not limited to:

(a) managing the affairs of the commission in a manner consistent with the bylaws and purposes of the commission;

(b) establishing and overseeing an organizational structure within, and appropriate procedures for, the commission to provide for the creation of uniform standards and other rules, receipt and review of product filings, administrative and technical support functions, review of decisions regarding the disapproval of a product filing, and the review of elections made by a compacting state to opt out of a uniform standard; however, a uniform standard shall not be submitted to the compacting states for adoption unless approved by two-thirds of the members of the management committee;

(c) overseeing the offices of the commission; and

(d) planning, implementing, and coordinating communications and activities with other state, federal and local government organizations in order to advance the goals of the commission.

(3) The commission shall elect annually officers from the management committee, with each having the authority and duties as may be specified in the bylaws.

(4) The management committee may, subject to the approval of the commission, appoint or retain an executive director for a period, upon those terms and conditions, and for that compensation, which the commission deems appropriate. The executive director shall serve as secretary to the commission, but shall not be a member of the commission. The executive director shall hire and supervise additional staff as authorized by the commission.

c. (1) A legislative committee comprised of state legislators or their designees, provided in a manner of selection and for terms as shall be set forth in the bylaws, shall be established to monitor the operations of, and make recommendations to, the commission, including the management

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committee; provided that the manner of selection and term of any legislative committee member shall be as set forth in the bylaws. Prior to the adoption by the commission of any uniform standard, revision to the bylaws, annual budget, or other significant matter as may be provided in the bylaws, the management committee shall consult with and report to the legislative committee.

(2) The commission shall establish two advisory committees, one of which shall be comprised of consumer representatives independent of the insurance industry, and the other comprised of insurance industry representatives.

(3) The commission may establish additional advisory committees as provided in the bylaws for carrying out its functions.

d. The commission shall maintain its corporate books and records in accordance with the bylaws.

e. (1) The members, officers, executive director, employees, and representatives of the commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error, or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred, within the scope of commission employment, duties, or responsibilities; however, nothing in this paragraph shall be construed to protect any person from suit and liability for any damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of that person.

(2) The commission shall defend any member, officer, executive director, employee, or representative of the commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities, so long as that actual or alleged act, error, or omission did not result from that person's intentional or willful and wanton misconduct; however, nothing herein shall be construed to prohibit that person from retaining his own counsel.

(3) The commission shall indemnify and hold harmless any member, officer, executive director, employee, or representative of the commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that the person had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities, so long as

that actual or alleged act, error, or omission did not result from the intentional or willful and wanton misconduct of that person.

C.17B:37-6 Meetings, actions.

6. a. The commission shall meet and take those actions consistent with the provisions of this act and the bylaws.

b. Each member of the commission shall have the right and power to cast a vote to which that compacting state is entitled, and to participate in the business and affairs of the commission. A member shall vote in person or by other means as provided in the bylaws. The bylaws may provide for members' participation in meetings by telephone or other means of communication.

c. The commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the bylaws.

C.17B:37-7 Rules, uniform standards, operating procedures.

7. a. The commission shall promulgate reasonable rules, including uniform standards and operating procedures, in order to effectively and efficiently achieve the purposes of this act. Notwithstanding the foregoing, if the commission exercises its rulemaking authority in a manner that is beyond the scope of the purposes of this act, or the powers granted hereunder, that action by the commission shall be invalid and have no force and effect.

b. Rules and operating procedures shall be made pursuant to a rulemaking process that conforms to the Model State Administrative Procedure Act of 1981 adopted by the National Conference of Commissioners on Uniform State Laws, as amended, as may be appropriate to the operations of the commission. Before the commission adopts a uniform standard, the commission shall give written notice to the relevant state legislative committee or committees in each compacting state responsible for insurance issues of its intention to adopt the uniform standard. The commission, in adopting a uniform standard, shall consider fully all submitted materials and issue a concise explanation of its decision.

c. A uniform standard shall become effective 90 days after its promulgation by the commission, or a later date determined by the commission; however, a compacting state may opt out of a uniform standard as provided in subsection d. of this section. As used in this section, "opt out" means any action by a compacting state to decline to adopt or participate in a promulgated uniform standard. All other rules and operating procedures, and amendments thereto, shall become effective as of the date specified in each rule, operating procedure, or amendment.

d. (1) A compacting state may opt out of a uniform standard, either by legislation or regulation, duly promulgated by the insurance department under the compacting state's administrative procedure act. If a compacting state elects to opt out of a uniform standard by regulation, it shall give written notice to the commission no later than 10 business days after the uniform standard is promulgated, or at the time the state becomes a compacting state and finds that the uniform standard does not provide reasonable protections to the citizens of the state, given the conditions in that state. The commissioner shall make specific findings of fact and conclusions of law, based on a preponderance of the evidence, detailing the conditions in the state which warrant a departure from the uniform standard and determining that the uniform standard would not reasonably protect the citizens of that state. The commissioner shall consider and balance the following factors, and find that the conditions in the state and needs of the citizens of the state outweigh:

(a) the intent of the legislature to participate in, and the benefits of, an interstate agreement to establish national uniform consumer protections for the products subject to this act; and

(b) the presumption that a uniform standard adopted by the commission provides reasonable protections to consumers of the relevant product.

(2) Notwithstanding the provisions of paragraph (1) of this subsection, a compacting state may, at the time of its enactment of the compact, prospectively opt out of all uniform standards involving long-term care insurance products by expressly providing therefor in the act, and that opt out shall not be treated as a material variance in the offer or acceptance of any state to participate in the compact. Such an opt out shall be effective at the time of enactment of the compact by the compacting state, and shall apply to all existing uniform standards involving long-term care insurance products and those subsequently promulgated.

(3) In accordance with the provisions of paragraph (2) of this subsection, this State prospectively opts out of all uniform standards involving long-term care insurance products promulgated by the commission, as this State has previously enacted the "New Jersey Long-Term Care Insurance Act," P.L.2003, c.207 (C.17B:27E-1 et seq.), which facilitates flexibility and innovation in the development of long-term care insurance coverage.

e. If a compacting state elects to opt out of a uniform standard, the uniform standard shall remain applicable in the compacting state electing to opt out until the opt out legislation is enacted into law or the regulation opting out becomes effective.

Once the opt out of a uniform standard by a compacting state becomes effective as provided under the laws of that state, the uniform standard shall

have no further force and effect in that state unless the legislation or regulation implementing the opt out is repealed or otherwise becomes ineffective under the laws of the state. If a compacting state opts out of a uniform standard after the uniform standard has been made effective in that state, the opt out shall have the same prospective effect as provided pursuant to section 14 of this act for withdrawal from the compact.

f. If a compacting state has formally initiated the process of opting out of a uniform standard by regulation, and while the regulatory opt out is pending, the compacting state may petition the commission, at least 15 days before the effective date of the uniform standard, to stay the effectiveness of the uniform standard in that state. The commission may grant a stay if it determines that the regulatory opt out is being pursued in a reasonable manner and there is a likelihood of success. If a stay is granted or extended by the commission, the stay or extension thereof may postpone the effective date by up to 90 days, unless affirmatively extended by the commission; however, a stay may not be permitted to remain in effect for more than one year unless the compacting state can show extraordinary circumstances which warrant a continuance of the stay, including, but not limited to, the existence of a legal challenge which prevents the compacting state from opting out. A stay may be terminated by the commission upon notice that the rulemaking process has been terminated.

g. Not later than 30 days after a rule or operating procedure is promulgated, any person may file a petition for judicial review of the rule or operating procedure; however, the filing of that petition shall not stay or otherwise prevent the rule or operating procedure from becoming effective unless the court finds that the petitioner has a substantial likelihood of success. The court shall give deference to the actions of the commission consistent with applicable law and shall not find the rule or operating procedure to be unlawful if the rule or operating procedure represents a reasonable exercise of the commission's authority.

C.17B:37-8 Rules establishing conditions, procedures for public inspection, copying of information and official records.

8. a. The commission shall promulgate rules establishing conditions and procedures for public inspection and copying of its information and official records, except for information and records involving the privacy of individuals and insurers' trade secrets. The commission may promulgate additional rules under which it may make available to federal and state agencies, including law enforcement agencies, records and information otherwise exempt from disclosure, and may enter into agreements with those

agencies to receive or exchange information or records subject to nondisclosure and confidentiality provisions.

b. Except as to privileged records, data and information, the laws of any compacting state pertaining to confidentiality or nondisclosure shall not relieve any compacting state commissioner of the duty to disclose any relevant records, data or information to the commission; however, disclosure to the commission shall not be deemed to waive or otherwise affect any confidentiality requirement, and further, except as otherwise expressly provided in this act, the commission shall not be subject to the compacting state's laws pertaining to confidentiality and nondisclosure with respect to records, data, and information in its possession. Confidential information of the commission shall remain confidential after that information is provided to any commissioner.

c. The commission shall monitor compacting states for compliance with duly adopted bylaws, rules, including uniform standards, and operating procedures. The commission shall notify any non-complying compacting state in writing of its noncompliance with commission bylaws, rules, or operating procedures. If a non-complying compacting state fails to remedy its noncompliance within the time specified in the notice of noncompliance, the compacting state shall be deemed to be in default as provided in section 14 of this act.

d. The commissioner of any state in which an insurer is authorized to do business, or is conducting the business of insurance, shall continue to exercise the commissioner's authority to oversee the market regulation of the activities of the insurer in accordance with the provisions of the state's law. The commissioner's enforcement of compliance with the compact is governed by the following provisions:

(1) With respect to the commissioner's market regulation of a product or advertisement that is approved or certified to the commission, the content of the product or advertisement shall not constitute a violation of the provisions, standards, or requirements of the compact except upon a final order of the commission, issued at the request of a commissioner after prior notice to the insurer and an opportunity for hearing before the commission.

(2) Before a commissioner may bring an action for violation of any provision, standard, or requirement of the compact relating to the content of an advertisement not approved or certified to the commission, the commission, or an authorized commission officer or employee, shall authorize the action. However, authorization pursuant to this paragraph does not require notice to the insurer, opportunity for hearing, or disclosure of requests for authorization or records of the commission's action on such requests.

C.17B:37-9 Resolution of disputes, issues subject to compact.

9. The commission shall attempt, upon the request of a member, to resolve any disputes or other issues that are subject to the compact and which may arise between two or more compacting states, or between compacting states and non-compacting states, and the commission shall promulgate an operating procedure providing for resolution of those disputes.

C.17B:37-10 Approval process for product.

10. a. Insurers and third party filers seeking to have a product approved by the commission shall file the product with, and pay applicable filing fees to, the commission. Nothing in this act shall be construed to restrict or otherwise prevent an insurer from filing its product with the insurance department in any state wherein the insurer is licensed to conduct the business of insurance, and that filing shall be subject to the laws of the states where filed.

b. The commission shall establish appropriate filing and review processes and procedures pursuant to commission rules and operating procedures. Notwithstanding any provision in this act to the contrary, the commission shall promulgate rules to establish conditions and procedures under which the commission will provide public access to product filing information. In establishing these rules, the commission shall consider the interests of the public in having access to that information, as well as protection of personal medical and financial information and trade secrets, which may be contained in a product filing or supporting information.

c. Any product approved by the commission may be sold or otherwise issued in those compacting states for which the insurer is legally authorized to do business.

C.17B:37-11 Disapproved product or advertisement; appeal.

11. a. Not later than 30 days after the commission has given notice of a disapproved product or advertisement filed with the commission, the insurer or third party filer whose filing was disapproved may appeal the determination to a review panel appointed by the commission. The commission shall promulgate rules to establish procedures for appointing those review panels and provide for notice and hearing. An allegation that the commission, in disapproving a product or advertisement filed with the commission, acted arbitrarily, capriciously, or in a manner that is an abuse of discretion or otherwise not in accordance with the law, is subject to judicial review in accordance with subsection d. of section 3 of this act.

b. The commission shall have the authority to monitor, review, and reconsider products and advertisements subsequent to their filing or ap-

proval upon a finding that the product does not meet the relevant uniform standard. Where appropriate, the commission may withdraw or modify its approval after proper notice and hearing, subject to the appeal process pursuant to subsection a. of this section.

C.17B:37-12 Payment of reasonable expenses of establishment, organization.

12. a. The commission shall pay or provide for the payment of the reasonable expenses of its establishment and organization. To fund the cost of its initial operations, the commission may accept contributions and other forms of funding from the NAIC, compacting states, and other sources. Contributions and other forms of funding from other sources shall be of a nature that the independence of the commission concerning the performance of its duties shall not be compromised.

b. The commission shall collect a filing fee from each insurer and third party filer filing a product with the commission to cover the cost of the operations and activities of the commission and its staff in a total amount sufficient to cover the commission's annual budget.

c. The commission's budget for a fiscal year shall not be approved until it has been subject to notice and comment as set forth in section 7 of this act.

d. The commission shall be exempt from all taxation in and by the compacting states.

e. The commission shall not pledge the credit of any compacting state, except by and with the appropriate legal authority of that compacting state.

f. The commission shall keep complete and accurate accounts of all its internal receipts, including grants and donations, and disbursements of all funds under its control. The internal financial accounts of the commission shall be subject to the accounting procedures established under its bylaws. The financial accounts and reports, including the system of internal controls and procedures of the commission, shall be audited annually by an independent certified public accountant. Upon the determination of the commission, but no less frequently than every three years, the review of the independent auditor shall include a management and performance audit of the commission. The commission shall make an annual report to the governor and legislature of the compacting states, which shall include a report of the independent audit. The commission's internal accounts shall not be confidential and may be shared with the commissioner of any compacting state upon request, except that any work papers related to any internal or independent audit and any information regarding the privacy of individuals and insurers' proprietary information, including trade secrets, shall remain confidential.

g. No compacting state shall have any claim to or ownership of any property held by or vested in the commission, or to any commission funds held pursuant to the provisions of this act.

C.17B:37-13 Eligibility of states to join compact.

13. a. Any state is eligible to become a compacting state.

b. The compact shall become effective and binding upon legislative enactment of the compact into law by two compacting states; however, the commission shall become effective for purposes of adopting uniform standards for, reviewing, and giving approval or disapproval of, products filed with the commission that satisfy applicable uniform standards only after 26 states are compacting states or, alternatively, by states representing greater than 40% of the premium volume for life insurance, annuity, disability income, and long-term care insurance products, based on records of the NAIC for the prior year. Thereafter, the compact shall become effective and binding as to any other compacting state upon enactment of the compact into law by that state.

c. Amendments to the compact may be proposed by the commission for enactment by the compacting states. No amendment shall become effective and binding upon the commission and the compacting states unless all compacting states enact the amendment into law.

C.17B:37-14 Withdrawal, termination, reinstatement.

14. a. (1) Once effective, the compact shall continue in force and remain binding upon each compacting state; however, a compacting state may withdraw from the compact by repealing the statute which enacted the compact into law.

(2) The effective date of withdrawal is the effective date of the repealing statute. However, the withdrawal shall not apply to any product filings approved or self-certified, or any advertisement of those products, prior to or on the date the repealing statute becomes effective, except by mutual agreement of the commission and the withdrawing state unless the approval is rescinded by the withdrawing state as provided in paragraph (5) of this subsection.

(3) The commissioner of the withdrawing state shall immediately notify the management committee in writing upon the introduction of legislation repealing this compact in the withdrawing state.

(4) The commission shall notify the other compacting states of the introduction of such legislation within 10 days after its receipt of notice thereof.

(5) The withdrawing state is responsible for all obligations, duties, and liabilities incurred through the effective date of withdrawal, including any obligations, the performance of which extend beyond the effective date of withdrawal, except to the extent those obligations may have been released or relinquished by mutual agreement of the commission and the withdrawing state. The commission's approval of products and advertisements prior to the effective date of withdrawal shall continue to be effective and be given full effect in the withdrawing state, unless formally rescinded by the withdrawing state in the same manner as provided by the laws of the withdrawing state for the prospective disapproval of products or advertisements previously approved under state law.

(6) Reinstatement following withdrawal of any compacting state shall occur upon the effective date of the withdrawing state reenacting the compact.

b. (1) If the commission determines that any compacting state has at any time defaulted in the performance of any of its obligations or responsibilities under the compact, the bylaws, or duly promulgated rules or operating procedures, then, after notice and hearing as set forth in the bylaws, all rights, privileges, and benefits conferred by the compact on the defaulting state shall be suspended from the effective date of default as fixed by the commission. The grounds for default include, but are not limited to, failure of a compacting state to perform its obligations or responsibilities, and any other grounds designated in commission rules. The commission shall immediately notify the defaulting state in writing of the defaulting state's suspension pending a cure of the default. The commission shall stipulate the conditions and the time period within which the defaulting state shall cure its default. If the defaulting state fails to cure the default within the time period specified by the commission, the defaulting state shall be terminated from the compact and all rights, privileges, and benefits conferred by the compact shall be terminated from the effective date of termination.

(2) Product approvals by the commission or product self-certifications, or any advertisement in connection with that product, that are in force on the effective date of termination shall remain in force in the defaulting state in the same manner as if the defaulting state had withdrawn voluntarily pursuant to subsection a. of this section.

(3) Reinstatement following termination of any compacting state shall require a reenactment of the compact.

c. (1) The compact shall dissolve effective upon the date of the withdrawal or default of the compacting state which reduces membership in the compact to one compacting state.

(2) Upon the dissolution of the compact, the compact shall become void and shall be of no further effect, and the business and affairs of the commission shall be completed, and any surplus funds shall be distributed in accordance with the bylaws.

C.17B:37-15 Severability; liberal construction.

15. a. The provisions of this act shall be severable; and if any phrase, clause, sentence, or provision is deemed unenforceable, the remaining provisions of this act shall be enforceable.

b. The provisions of this act shall be liberally construed to effectuate its purposes.

C.17B:37-16 Enforcement of laws of compacting state unaffected.

16. a. (1) Nothing herein shall prevent the enforcement of any other law of a compacting state, except as provided in subsection b. of this section.

(2) For any product approved or certified by the commission, the rules, uniform standards, and any other requirements of the commission shall constitute the exclusive provisions applicable to the content, approval, and certification of that product. For any advertisement that is subject to the commission's authority, any rule, uniform standard, or other requirement of the commission which governs the content of the advertisement shall constitute the exclusive provision that a commissioner may apply to the content of the advertisement. Notwithstanding the foregoing, no action taken by the commission shall abrogate or restrict:

(a) the access of any person to state courts;

(b) remedies available under state law related to breach of contract, tort, or other laws not specifically directed to the content of the product;

(c) state law relating to the construction of insurance contracts; or

(d) the authority of the attorney general of the state, including, but not limited to, maintaining any actions or proceedings, as authorized by law.

(3) All insurance products filed with individual states shall be subject to the laws of those states.

b. (1) All lawful actions of the commission, including all rules and operating procedures promulgated by the commission, are binding upon the compacting states.

(2) All agreements between the commission and the compacting states are binding in accordance with their terms.

(3) Upon the request of a party to a conflict over the meaning or interpretation of commission actions, and upon a majority vote of the compacting states, the commission may issue advisory opinions regarding the

meaning or interpretation in dispute.

(4) In the event any provision of the compact exceeds the constitutional limits imposed on the legislature of any compacting state, the obligations, duties, powers, or jurisdiction sought to be conferred by that provision upon the commission shall be ineffective as to that compacting state, and those obligations, duties, powers, or jurisdiction shall remain in the compacting state and shall be exercised by the agency thereof to which those obligations, duties, powers, or jurisdiction are delegated by law in effect at the time the compact becomes effective.

C.17B:37-17 Report to Legislature.

17. The Commissioner of Banking and Insurance shall report to the Legislature, as provided pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), within one year of the effective date of this act or within one year of the operational date of the compact for the long-term care insurance products, whichever is later, the commissioner's non-binding recommendation as to whether the State should participate in the compact with respect to all uniform standards involving long-term care insurance products under the compact.

18. This act shall take effect upon enactment of the compact into law by two compacting states.

Approved January 5, 2011.

CHAPTER 121

AN ACT concerning advertisements on school buses and supplementing chapter 7F and chapter 39 of Title 18A of the New Jersey Statutes.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

C.18A:39-31 Contract for sale of advertising space on school buses, use of revenue.

1. a. The board of education of any school district may enter into a contract for the sale of advertising space on the exterior sides of school buses owned or leased by the school district, subject to the limitations set forth in this section. Advertisements for tobacco or alcohol products or for political advocacy shall be prohibited, in addition to any other advertisements for products or services or by sponsors that the Commissioner of Education deems inappropriate. All advertisements shall require prior approval by the local board of education.

b. In the event that a board of education enters into a contract for the sale of advertising space on the exterior sides of school buses pursuant to subsection a. of this section, 50% of any revenue generated by the sale shall be used by the board to offset the fuel costs of providing pupil transportation services, and the remaining 50% of the revenue shall be used to support any programs and services the board may deem appropriate.

c. The provisions of the "Public School Contracts Law," N.J.S.18A:18A-1 et seq., shall apply to any contract entered into by a board of education pursuant to this act.

C.18A:39-32 Report to Governor, Legislature.

2. The commissioner shall evaluate the impact of school bus advertising and report on the evaluation to the Governor, and to the Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), no later than one year following the effective date of this act and annually thereafter. The report shall include the number of school districts which permit the advertising and the fiscal benefits derived therefrom.

C.18A:7F-7.1 Increase in certain fund balance by school district.

3. A school district may increase the amount of undesignated general fund balance for the budget year authorized pursuant to section 7 of P.L.1996, c.138 (C.18A:7F-7) by the amount of any revenue received by the district under a contract entered into pursuant to section 1 of P.L.2010, c.121 (C.18A:39-31).

C.18A:39-33 Rules, regulations.

4. In accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the State Board of Education shall promulgate rules and regulations necessary to effectuate the purposes of this act including, but not limited to, the permissible size of the advertising and the criteria for determining the age-appropriateness of the advertising and the suitability of the message.

5. This act shall take effect immediately.

Approved January 5, 2011.

CHAPTER 122

AN ACT concerning harassment, intimidation, and bullying in school settings, amending various parts of the statutory law and supplementing

P.L.2002, c.83 (C.18A:37-13 et seq.) and chapter 3B of Title 18A of the New Jersey Statutes.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

C.18A:37-13.2 Short title.

1. Sections 1, 2, and 16 through 30 of this act and P.L.2002, c.83 (C.18A:37-13 et seq.) shall be known and may be cited as the "Anti-Bullying Bill of Rights Act."

C.18A:37-13.1 Findings, declarations relative to school bullying.

2. The Legislature finds and declares that:

a. A 2009 study by the United States Departments of Justice and Education, "Indicators of School Crime and Safety," reported that 32% of students aged 12 through 18 were bullied in the previous school year. The study reported that 25% of the responding public schools indicated that bullying was a daily or weekly problem;

b. A 2009 study by the United States Centers for Disease Control and Prevention, "Youth Risk Behavior Surveillance," reported that the percentage of students bullied in New Jersey is 1 percentage point higher than the national median;

c. In 2010, the chronic persistence of school bullying has led to student suicides across the country, including in New Jersey;

d. Significant research has emerged since New Jersey enacted its public school anti-bullying statute in 2002, and since the State amended that law in 2007 to include cyber-bullying and in 2008 to require each school district to post its anti-bullying policy on its website and distribute it annually to parents or guardians of students enrolled in the district;

e. School districts and their students, parents, teachers, principals, other school staff, and board of education members would benefit by the establishment of clearer standards on what constitutes harassment, intimidation, and bullying, and clearer standards on how to prevent, report, investigate, and respond to incidents of harassment, intimidation, and bullying;

f. It is the intent of the Legislature in enacting this legislation to strengthen the standards and procedures for preventing, reporting, investigating, and responding to incidents of harassment, intimidation, and bullying of students that occur in school and off school premises;

g. Fiscal responsibility requires New Jersey to take a smarter, clearer approach to fight school bullying by ensuring that existing resources are better managed and used to make our schools safer for students;

h. In keeping with the aforementioned goal of fiscal responsibility and in an effort to minimize any burden placed on schools and school districts, existing personnel and resources shall be utilized in every possible instance to accomplish the goals of increased prevention, reporting, and responsiveness to incidents of harassment, intimidation, or bullying, including in the appointment of school anti-bullying specialists and district anti-bullying coordinators;

i. By strengthening standards for preventing, reporting, investigating, and responding to incidents of bullying this act will help to reduce the risk of suicide among students and avert not only the needless loss of a young life, but also the tragedy that such loss represents to the student's family and the community at large; and

j. Harassment, intimidation, and bullying is also a problem which occurs on the campuses of institutions of higher education in this State, and by requiring the public institutions to include in their student codes of conduct a specific prohibition against bullying, this act will be a significant step in reducing incidents of such activity.

3. Section 1 of P.L.1986, c.116 (C.18A:6-7.1) is amended to read as follows:

C.18A:6-7.1 Criminal record check in public school employment, volunteer service.

1. A facility, center, school, or school system under the supervision of the Department of Education and board of education which cares for, or is involved in the education of children under the age of 18 shall not employ for pay or contract for the paid services of any teaching staff member or substitute teacher, teacher aide, child study team member, school physician, school nurse, custodian, school maintenance worker, cafeteria worker, school law enforcement officer, school secretary or clerical worker or any other person serving in a position which involves regular contact with pupils unless the employer has first determined consistent with the requirements and standards of this act, that no criminal history record information exists on file in the Federal Bureau of Investigation, Identification Division, or the State Bureau of Identification which would disqualify that individual from being employed or utilized in such capacity or position. An individual employed by a board of education or a school bus contractor holding a contract with a board of education, in the capacity of a school bus driver, shall be required to meet the criminal history record requirements pursuant to section 6 of P.L.1989, c.104 (C.18A:39-19.1). A facility, center, school, or school system under the supervision of the Department of Education and

board of education which cares for, or is involved in the education of children under the age of 18 may require criminal history record checks for individuals who, on an unpaid voluntary basis, provide services that involve regular contact with pupils. In the case of school districts involved in a sending-receiving relationship, the decision to require criminal history record checks for volunteers shall be made jointly by the boards of education of the sending and receiving districts.

An individual, except as provided in subsection g. of this section, shall be permanently disqualified from employment or service under this act if the individual's criminal history record check reveals a record of conviction for any crime of the first or second degree; or

a. An offense as set forth in chapter 14 of Title 2C of the New Jersey Statutes, or as set forth in N.J.S.2C:24-4 and 2C:24-7, or as set forth in R.S.9:6-1 et seq., or as set forth in N.J.S.2C:29-2; or

b. An offense involving the manufacture, transportation, sale, possession, distribution or habitual use of a "controlled dangerous substance" as defined in the "Comprehensive Drug Reform Act of 1987," N.J.S.2C:35-1 et al. or "drug paraphernalia" as defined pursuant to N.J.S.2C:36-1 et seq.; or

c. (1) A crime involving the use of force or the threat of force to or upon a person or property including, but not limited to, robbery, aggravated assault, stalking, kidnapping, arson, manslaughter and murder; or

(2) A crime as set forth in chapter 39 of Title 2C of the New Jersey Statutes, a third degree crime as set forth in chapter 20 of Title 2C of the New Jersey Statutes, or a crime as listed below:

Recklessly endangering another person	N.J.S.2C:12-2
Terroristic threats	N.J.S.2C:12-3
Criminal restraint	N.J.S.2C:13-2
Luring, enticing child into motor vehicle, structure or isolated area	P.L.1993, c.291 (C.2C:13-6)
Causing or risking widespread injury or damage	N.J.S.2C:17-2
Criminal mischief	N.J.S.2C:17-3
Burglary	N.J.S.2C:18-2
Usury	N.J.S.2C:21-19
Threats and other improper influence	N.J.S.2C:27-3
Perjury and false swearing	N.J.S.2C:28-3
Resisting arrest	N.J.S.2C:29-2
Escape	N.J.S.2C:29-5
Bias intimidation	N.J.S.2C:16-1;

or

(3) Conspiracy to commit or an attempt to commit any of the crimes described in this act.

d. For the purposes of this section, a conviction exists if the individual has at any time been convicted under the laws of this State or under any similar statutes of the United States or any other state for a substantially equivalent crime or other offense.

e. Notwithstanding the provisions of this section, an individual shall not be disqualified from employment or service under this act on the basis of any conviction disclosed by a criminal record check performed pursuant to this act without an opportunity to challenge the accuracy of the disqualifying criminal history record.

f. When charges are pending for a crime or any other offense enumerated in this section, the employing board of education shall be notified that the candidate shall not be eligible for employment until the commissioner has made a determination regarding qualification or disqualification upon adjudication of the pending charges.

g. This section shall first apply to criminal history record checks conducted on or after the effective date of P.L.1998, c.31 (C.18A:6-7.1c et al.); except that in the case of an individual employed by a board of education or a contracted service provider who is required to undergo a check upon employment with another board of education or contracted service provider, the individual shall be disqualified only for the following offenses:

(1) any offense enumerated in this section prior to the effective date of P.L.1998, c.31 (C.18A:6-7.1c et al.); and

(2) any offense enumerated in this section which had not been enumerated in this section prior to the effective date of P.L.1998, c.31 (C.18A:6-7.1c et al.), if the person was convicted of that offense on or after the effective date of that act.

4. Section 2 of P.L.2005, c.310 (C.18A:6-112) is amended to read as follows:

C.18A:6-112 Instruction in suicide prevention for public school teaching staff.

2. The State Board of Education, in consultation with the New Jersey Youth Suicide Prevention Advisory Council established in the Department of Children and Families pursuant to P.L.2003, c.214 (C.30:9A-22 et seq.), shall, as part of the professional development requirement established by the State board for public school teaching staff members, require each public school teaching staff member to complete at least two hours of instruction in suicide prevention, to be provided by a licensed health care profes-

sional with training and experience in mental health issues, in each professional development period. The instruction in suicide prevention shall include information on the relationship between the risk of suicide and incidents of harassment, intimidation, and bullying and information on reducing the risk of suicide in students who are members of communities identified as having members at high risk of suicide.

5. Section 3 of P.L.1995, c.235 (C.18A:7E-3) is amended to read as follows:

C.18A:7E-3 Report card information.

3. Report cards issued pursuant to section 2 of this act shall include, but not be limited to, the following information for:

a. the school district and for each school within the district, as appropriate:

(1) results of the elementary assessment programs;

(2) results of the Early Warning Test;

(3) results of the High School Proficiency Test;

(4) daily attendance records for students and professional staff;

(5) student graduation and dropout rates;

(6) annual student scores on the Scholastic Aptitude Test;

(7) total student enrollment, percentage of limited English proficient students, percentage of students in advanced placement courses, and any other school characteristics which the commissioner deems appropriate;

(8) instructional resources including teacher/student ratio, average class size and amount of instructional time per day, as calculated by formulas specified by the commissioner;

(9) a written narrative by the school principal or a designee which describes any special achievements, events, problems or initiatives of the school or district; and

(10) data identifying the number and nature of all reports of harassment, intimidation, or bullying; and

b. the school district, as appropriate:

(1) per pupil expenditures and State aid ratio;

(2) percent of budget allocated for salaries and benefits of administrative personnel;

(3) percent of budget allocated for salaries and benefits of teachers;

(4) percentage increase over the previous year for salaries and benefits of administrative and instructional personnel;

(5) the number of administrative personnel and the ratio of administrative personnel to instructional personnel;

(6) a profile of the most recent graduating class concerning their educational or employment plans following graduation; and

(7) any other information which the commissioner deems appropriate.

For the purposes of this section, the Commissioner of Education shall establish a uniform methodology for the reporting of the data concerning administrative personnel on a full-time equivalent basis.

6. Section 13 of P.L.1991, c.393 (C.18A:12-33) is amended to read as follows:

C.18A:12-33 Training program; requirements.

13. a. Each newly elected or appointed board member shall complete during the first year of the member's first term a training program to be prepared and offered by the New Jersey School Boards Association, in consultation with the New Jersey Association of School Administrators, the New Jersey Principals and Supervisors Association, and the Department of Education, regarding the skills and knowledge necessary to serve as a local school board member. The training program shall include information regarding the school district monitoring system established pursuant to P.L.2005, c.235, the New Jersey Quality Single Accountability Continuum, and the five key components of school district effectiveness on which school districts are evaluated under the monitoring system: instruction and program; personnel; fiscal management; operations; and governance.

The board member shall complete a training program on school district governance in each of the subsequent two years of the board member's first term.

b. Within one year after each re-election or re-appointment to the board of education, the board member shall complete an advanced training program to be prepared and offered by the New Jersey School Boards Association. This advanced training program shall include information on relevant changes to New Jersey school law and other information deemed appropriate to enable the board member to serve more effectively.

c. The New Jersey School Boards Association shall examine options for providing training programs to school board members through alternative methods such as on-line or other distance learning media or through regional-based training.

d. Within one year after being newly elected or appointed or being re-elected or re-appointed to the board of education, a board member shall

complete a training program on harassment, intimidation, and bullying in schools, including a school district's responsibilities under P.L.2002, c.83 (C.18A:37-13 et seq.). A board member shall be required to complete the program only once.

e. Training on harassment, intimidation, and bullying in schools shall be provided by the New Jersey School Boards Association, in consultation with recognized experts in school bullying from a cross section of academia, child advocacy organizations, nonprofit organizations, professional associations, and government agencies.

7. Section 1 of P.L.1982, c.163 (C.18A:17-46) is amended to read as follows:

C.18A:17-46 Reporting of certain acts by school employee; report; public hearing.

1. Any school employee observing or having direct knowledge from a participant or victim of an act of violence shall, in accordance with standards established by the commissioner, file a report describing the incident to the school principal in a manner prescribed by the commissioner, and copy of same shall be forwarded to the district superintendent.

The principal shall notify the district superintendent of schools of the action taken regarding the incident. Two times each school year, between September 1 and January 1 and between January 1 and June 30, at a public hearing, the superintendent of schools shall report to the board of education all acts of violence, vandalism, and harassment, intimidation, or bullying which occurred during the previous reporting period. The report shall include the number of reports of harassment, intimidation, or bullying, the status of all investigations, the nature of the bullying based on one of the protected categories identified in section 2 of P.L.2002, c.83 (C.18A:37-14), the names of the investigators, the type and nature of any discipline imposed on any student engaged in harassment, intimidation, or bullying, and any other measures imposed, training conducted, or programs implemented, to reduce harassment, intimidation, or bullying. The information shall also be reported once during each reporting period to the Department of Education. The report must include data broken down by the enumerated categories as listed in section 2 of P.L.2002, c.83 (C.18A:37-14), and data broken down by each school in the district, in addition to district-wide data. It shall be a violation to improperly release any confidential information not authorized by federal or State law for public release.

The report shall be used to grade each school for the purpose of assessing its effort to implement policies and programs consistent with the provi-

sions of P.L.2002, c.83 (C.18A:37-13 et seq.). The district shall receive a grade determined by averaging the grades of all the schools in the district. The commissioner shall promulgate guidelines for a program to grade schools for the purposes of this section.

The grade received by a school and the district shall be posted on the homepage of the school's website. The grade for the district and each school of the district shall be posted on the homepage of the district's website. A link to the report shall be available on the district's website. The information shall be posted on the websites within 10 days of the receipt of a grade by the school and district.

Verification of the reports on violence, vandalism, and harassment, intimidation, or bullying shall be part of the State's monitoring of the school district, and the State Board of Education shall adopt regulations that impose a penalty on a school employee who knowingly falsifies the report. A board of education shall provide ongoing staff training, in cooperation with the Department of Education, in fulfilling the reporting requirements pursuant to this section. The majority representative of the school employees shall have access monthly to the number and disposition of all reported acts of school violence, vandalism, and harassment, intimidation, or bullying.

8. Section 3 of P.L.1982, c.163 (C.18A:17-48) is amended to read as follows:

C.18A:17-48 Annual report to Legislature.

3. The Commissioner of Education shall each year submit a report to the Education Committees of the Senate and General Assembly detailing the extent of violence, vandalism, and harassment, intimidation, or bullying in the public schools and making recommendations to alleviate the problem. The report shall be made available annually to the public no later than October 1, and shall be posted on the department's website.

9. Section 13 of P.L.2007, c.53 (C.18A:26-8.2) is amended to read as follows:

C.18A:26-8.2 "School leader" defined; training as part of professional development.

13. a. As used in this section, "school leader" means a school district staff member who holds a position that requires the possession of a chief school administrator, principal, or supervisor endorsement.

b. A school leader shall complete training on issues of school ethics, school law, and school governance as part of the professional development

for school leaders required pursuant to State Board of Education regulations. Information on the prevention of harassment, intimidation, and bullying shall also be included in the training. The training shall be offered through a collaborative training model as identified by the Commissioner of Education, in consultation with the State Advisory Committee on Professional Development for School Leaders.

10. N.J.S.18A:37-2 is amended to read as follows:

Causes for suspension, expulsion of pupils.

18A:37-2. Any pupil who is guilty of continued and willful disobedience, or of open defiance of the authority of any teacher or person having authority over him, or of the habitual use of profanity or of obscene language, or who shall cut, deface or otherwise injure any school property, shall be liable to punishment and to suspension or expulsion from school.

Conduct which shall constitute good cause for suspension or expulsion of a pupil guilty of such conduct shall include, but not be limited to, any of the following:

a. Continued and willful disobedience;

b. Open defiance of the authority of any teacher or person, having authority over him;

c. Conduct of such character as to constitute a continuing danger to the physical well-being of other pupils;

d. Physical assault upon another pupil;

e. Taking, or attempting to take, personal property or money from another pupil, or from his presence, by means of force or fear;

f. Willfully causing, or attempting to cause, substantial damage to school property;

g. Participation in an unauthorized occupancy by any group of pupils or others of any part of any school or other building owned by any school district, and failure to leave such school or other facility promptly after having been directed to do so by the principal or other person then in charge of such building or facility;

h. Incitement which is intended to and does result in unauthorized occupation by any group of pupils or others of any part of a school or other facility owned by any school district;

i. Incitement which is intended to and does result in truancy by other pupils;

j. Knowing possession or knowing consumption without legal authority of alcoholic beverages or controlled dangerous substances on school

premises, or being under the influence of intoxicating liquor or controlled dangerous substances while on school premises; and

k. Harassment, intimidation, or bullying.

11. Section 2 of P.L.2002, c.83 (C.18A:37-14) is amended to read as follows:

C.18A:37-14 Definitions relative to adoption of harassment and bullying prevention policies

2. As used in this act:

"Electronic communication" means a communication transmitted by means of an electronic device, including, but not limited to, a telephone, cellular phone, computer, or pager;

"Harassment, intimidation or bullying" means any gesture, any written, verbal or physical act, or any electronic communication, whether it be a single incident or a series of incidents, that is reasonably perceived as being motivated either by any actual or perceived characteristic, such as race, color, religion, ancestry, national origin, gender, sexual orientation, gender identity and expression, or a mental, physical or sensory disability, or by any other distinguishing characteristic, that takes place on school property, at any school-sponsored function, on a school bus, or off school grounds as provided for in section 16 of P.L.2010, c.122 (C.18A:37-15.3), that substantially disrupts or interferes with the orderly operation of the school or the rights of other students and that:

a. a reasonable person should know, under the circumstances, will have the effect of physically or emotionally harming a student or damaging the student's property, or placing a student in reasonable fear of physical or emotional harm to his person or damage to his property;

b. has the effect of insulting or demeaning any student or group of students; or

c. creates a hostile educational environment for the student by interfering with a student's education or by severely or pervasively causing physical or emotional harm to the student.

12. Section 3 of P.L.2002, c.83 (C.18A:37-15) is amended to read as follows:

C.18A:37-15 Adoption of policy concerning harassment, intimidation or bullying by each school district.

3. a. Each school district shall adopt a policy prohibiting harassment, intimidation or bullying on school property, at a school-sponsored function

or on a school bus. The school district shall adopt the policy through a process that includes representation of parents or guardians, school employees, volunteers, students, administrators, and community representatives.

b. A school district shall have local control over the content of the policy, except that the policy shall contain, at a minimum, the following components:

(1) a statement prohibiting harassment, intimidation or bullying of a student;

(2) a definition of harassment, intimidation or bullying no less inclusive than that set forth in section 2 of P.L.2002, c.83 (C.18A:37-14);

(3) a description of the type of behavior expected from each student;

(4) consequences and appropriate remedial action for a person who commits an act of harassment, intimidation or bullying;

(5) a procedure for reporting an act of harassment, intimidation or bullying, including a provision that permits a person to report an act of harassment, intimidation or bullying anonymously; however, this shall not be construed to permit formal disciplinary action solely on the basis of an anonymous report.

All acts of harassment, intimidation, or bullying shall be reported verbally to the school principal on the same day when the school employee or contracted service provider witnessed or received reliable information regarding any such incident. The principal shall inform the parents or guardians of all students involved in the alleged incident, and may discuss, as appropriate, the availability of counseling and other intervention services. All acts of harassment, intimidation, or bullying shall be reported in writing to the school principal within two school days of when the school employee or contracted service provider witnessed or received reliable information that a student had been subject to harassment, intimidation, or bullying;

(6) a procedure for prompt investigation of reports of violations and complaints, which procedure shall at a minimum provide that:

(a) the investigation shall be initiated by the principal or the principal's designee within one school day of the report of the incident and shall be conducted by a school anti-bullying specialist. The principal may appoint additional personnel who are not school anti-bullying specialists to assist in the investigation. The investigation shall be completed as soon as possible, but not later than 10 school days from the date of the written report of the incident of harassment, intimidation, or bullying. In the event that there is information relative to the investigation that is anticipated but not yet received by the end of the 10-day period, the school anti-bullying specialist

may amend the original report of the results of the investigation to reflect the information;

(b) the results of the investigation shall be reported to the superintendent of schools within two school days of the completion of the investigation, and in accordance with regulations promulgated by the State Board of Education pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the superintendent may decide to provide intervention services, establish training programs to reduce harassment, intimidation, or bullying and enhance school climate, impose discipline, order counseling as a result of the findings of the investigation, or take or recommend other appropriate action;

(c) the results of each investigation shall be reported to the board of education no later than the date of the board of education meeting next following the completion of the investigation, along with information on any services provided, training established, discipline imposed, or other action taken or recommended by the superintendent;

(d) parents or guardians of the students who are parties to the investigation shall be entitled to receive information about the investigation, in accordance with federal and State law and regulation, including the nature of the investigation, whether the district found evidence of harassment, intimidation, or bullying, or whether discipline was imposed or services provided to address the incident of harassment, intimidation, or bullying. This information shall be provided in writing within 5 school days after the results of the investigation are reported to the board. A parent or guardian may request a hearing before the board after receiving the information, and the hearing shall be held within 10 days of the request. The board shall meet in executive session for the hearing to protect the confidentiality of the students. At the hearing the board may hear from the school anti-bullying specialist about the incident, recommendations for discipline or services, and any programs instituted to reduce such incidents;

(e) at the next board of education meeting following its receipt of the report, the board shall issue a decision, in writing, to affirm, reject, or modify the superintendent's decision. The board's decision may be appealed to the Commissioner of Education, in accordance with the procedures set forth in law and regulation, no later than 90 days after the issuance of the board's decision; and

(f) a parent, student, guardian, or organization may file a complaint with the Division on Civil Rights within 180 days of the occurrence of any incident of harassment, intimidation, or bullying based on membership in a

protected group as enumerated in the "Law Against Discrimination," P.L.1945, c.169 (C.10:5-1 et seq.);

(7) the range of ways in which a school will respond once an incident of harassment, intimidation or bullying is identified, which shall be defined by the principal in conjunction with the school anti-bullying specialist, but shall include an appropriate combination of counseling, support services, intervention services, and other programs, as defined by the commissioner;

(8) a statement that prohibits reprisal or retaliation against any person who reports an act of harassment, intimidation or bullying and the consequence and appropriate remedial action for a person who engages in reprisal or retaliation;

(9) consequences and appropriate remedial action for a person found to have falsely accused another as a means of retaliation or as a means of harassment, intimidation or bullying;

(10) a statement of how the policy is to be publicized, including notice that the policy applies to participation in school-sponsored functions;

(11) a requirement that a link to the policy be prominently posted on the home page of the school district's website and distributed annually to parents and guardians who have children enrolled in a school in the school district; and

(12) a requirement that the name, school phone number, school address and school email address of the district anti-bullying coordinator be listed on the home page of the school district's website and that on the home page of each school's website the name, school phone number, school address and school email address of the school anti-bullying specialist and the district anti-bullying coordinator be listed. The information concerning the district anti-bullying coordinator and the school anti-bullying specialists shall also be maintained on the department's website.

c. A school district shall adopt a policy and transmit a copy of its policy to the appropriate executive county superintendent of schools by September 1, 2003. A school district shall annually conduct a re-evaluation, reassessment, and review of its policy, making any necessary revisions and additions. The board shall include input from the school anti-bullying specialists in conducting its re-evaluation, reassessment, and review. The district shall transmit a copy of the revised policy to the appropriate executive county superintendent of schools within 30 school days of the revision. The first revised policy following the effective date of P.L.2010, c.122 (C.18A:37-13.1 et al.) shall be transmitted to the executive county superintendent of schools by September 1, 2011.

d. (1) To assist school districts in developing policies for the prevention of harassment, intimidation, or bullying, the Commissioner of Education shall develop a model policy applicable to grades kindergarten through 12. This model policy shall be issued no later than December 1, 2002.

(2) The commissioner shall adopt amendments to the model policy which reflect the provisions of P.L.2010, c.122 (C.18A:37-13.1 et al.) no later than 90 days after the effective date of that act and shall subsequently update the model policy as the commissioner deems necessary.

e. Notice of the school district's policy shall appear in any publication of the school district that sets forth the comprehensive rules, procedures and standards of conduct for schools within the school district, and in any student handbook.

f. Nothing in this section shall prohibit a school district from adopting a policy that includes components that are more stringent than the components set forth in this section.

13. Section 4 of P.L.2002, c.83 (C.18A:37-16) is amended to read as follows:

C.18A:37-16 Reprisal, retaliation, false accusation prohibited.

4. a. A member of a board of education, school employee, student or volunteer shall not engage in reprisal, retaliation or false accusation against a victim, witness or one with reliable information about an act of harassment, intimidation or bullying.

b. A member of a board of education, school employee, contracted service provider, student or volunteer who has witnessed, or has reliable information that a student has been subject to, harassment, intimidation or bullying shall report the incident to the appropriate school official designated by the school district's policy, or to any school administrator or safe schools resource officer, who shall immediately initiate the school district's procedures concerning school bullying.

c. A member of a board of education or a school employee who promptly reports an incident of harassment, intimidation or bullying, to the appropriate school official designated by the school district's policy, or to any school administrator or safe schools resource officer, and who makes this report in compliance with the procedures in the district's policy, is immune from a cause of action for damages arising from any failure to remedy the reported incident.

d. A school administrator who receives a report of harassment, intimidation, or bullying from a district employee, and fails to initiate or conduct

an investigation, or who should have known of an incident of harassment, intimidation, or bullying and fails to take sufficient action to minimize or eliminate the harassment, intimidation, or bullying, may be subject to disciplinary action.

14. Section 5 of P.L.2002, c.83 (C.18A:37-17) is amended to read as follows:

C.18A:37-17 Establishment of bullying prevention programs or approaches.

5. a. Schools and school districts shall annually establish, implement, document, and assess bullying prevention programs or approaches, and other initiatives involving school staff, students, administrators, volunteers, parents, law enforcement and community members. The programs or approaches shall be designed to create school-wide conditions to prevent and address harassment, intimidation, and bullying.

A school district may apply to the Department of Education for a grant to be used for programs or approaches established pursuant to this subsection, to the extent funds are appropriated for these purposes or funds are made available through the Bullying Prevention Fund established pursuant to section 25 of P.L.2010, c.122 (C.18A:37-28).

b. A school district shall: (1) provide training on the school district's harassment, intimidation, or bullying policies to school employees and volunteers who have significant contact with students; (2) ensure that the training includes instruction on preventing bullying on the basis of the protected categories enumerated in section 2 of P.L.2002, c.83 (C.18A:37-14) and other distinguishing characteristics that may incite incidents of discrimination, harassment, intimidation, or bullying; and (3) develop a process for discussing the district's harassment, intimidation or bullying policy with students.

c. Information regarding the school district policy against harassment, intimidation or bullying shall be incorporated into a school's employee training program and shall be provided to full-time and part-time staff, volunteers who have significant contact with students, and those persons contracted by the district to provide services to students.

15. Section 2 of P.L.2005, c.276 (C.52:17B-71.8) is amended to read as follows:

C.52:17B-71.8 Training course for safe schools resource officers, liaisons to law enforcement.

2. a. The Police Training Commission in the Division of Criminal Justice in the Department of Law and Public Safety, in consultation with the

Attorney General, shall develop a training course for safe schools resource officers and public school employees assigned by a board of education to serve as a school liaison to law enforcement. The Attorney General, in conjunction with the Police Training Commission, shall ensure that the training course is developed within 180 days of the effective date of this act. The course shall at a minimum provide comprehensive and consistent training in current school resource officer practices and concepts. The course shall include training in the protection of students from harassment, intimidation, and bullying, including incidents which occur through electronic communication. The course shall be made available to:

(1) any law enforcement officer or public school employee referred by the board of education of the public school to which assignment as a safe schools resource officer or school liaison to law enforcement is sought; and

(2) any safe schools resource officer or school liaison to law enforcement assigned to a public school prior to the effective date of P.L.2005, c.276 (C.52:17B-71.8 et al.).

b. The training course developed by the commission pursuant to subsection a. of this section shall be offered at each school approved by the commission to provide police training courses pursuant to the provisions of P.L.1961, c.56 (C.52:17B-66 et seq.). The commission shall ensure that an individual assigned to instruct the course is proficient and experienced in current school resource officer practices and concepts.

c. The commission shall award a certificate to each individual who successfully completes the course.

d. The Police Training Commission, in consultation with the Commissioner of Education, shall adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to implement the provisions of this section.

C.18A:37-15.3 Policy to include certain incidents occurring off school grounds.

16. The policy adopted by each school district pursuant to section 3 of P.L.2002, c.83 (C.18A:37-15) shall include provisions for appropriate responses to harassment, intimidation, or bullying, as defined in section 2 of P.L.2002, c.83 (C.18A:37-14), that occurs off school grounds, in cases in which a school employee is made aware of such actions. The responses to harassment, intimidation, or bullying that occurs off school grounds shall be consistent with the board of education's code of student conduct and other provisions of the board's policy on harassment, intimidation, or bullying.

C.18A:37-20 Appointment of school anti-bullying specialists, coordinator.

17. a. The principal in each school in a school district shall appoint a school anti-bullying specialist. When a school guidance counselor, school psychologist, or another individual similarly trained is currently employed in the school, the principal shall appoint that individual to be the school anti-bullying specialist. If no individual meeting this criteria is currently employed in the school, the principal shall appoint a school anti-bullying specialist from currently employed school personnel. The school anti-bullying specialist shall:

(1) chair the school safety team as provided in section 18 of P.L.2010, c.122 (C.18A:37-21);

(2) lead the investigation of incidents of harassment, intimidation, and bullying in the school; and

(3) act as the primary school official responsible for preventing, identifying, and addressing incidents of harassment, intimidation, and bullying in the school.

b. The superintendent of schools shall appoint a district anti-bullying coordinator. The superintendent shall make every effort to appoint an employee of the school district to this position. The district anti-bullying coordinator shall:

(1) be responsible for coordinating and strengthening the school district's policies to prevent, identify, and address harassment, intimidation, and bullying of students;

(2) collaborate with school anti-bullying specialists in the district, the board of education, and the superintendent of schools to prevent, identify, and respond to harassment, intimidation, and bullying of students in the district;

(3) provide data, in collaboration with the superintendent of schools, to the Department of Education regarding harassment, intimidation, and bullying of students; and

(4) execute such other duties related to school harassment, intimidation, and bullying as requested by the superintendent of schools.

c. The district anti-bullying coordinator shall meet at least twice a school year with the school anti-bullying specialists in the district to discuss and strengthen procedures and policies to prevent, identify, and address harassment, intimidation, and bullying in the district.

C.18A:37-21 School safety teams.

18. a. A school district shall form a school safety team in each school in the district to develop, foster, and maintain a positive school climate by

focusing on the on-going, systemic process and practices in the school and to address school climate issues such as harassment, intimidation, or bullying. A school safety team shall meet at least two times per school year.

b. A school safety team shall consist of the principal or his designee who, if possible, shall be a senior administrator in the school and the following appointees of the principal: a teacher in the school; a school anti-bullying specialist; a parent of a student in the school; and other members to be determined by the principal. The school anti-bullying specialist shall serve as the chair of the school safety team.

c. The school safety team shall:

(1) receive any complaints of harassment, intimidation, or bullying of students that have been reported to the principal;

(2) receive copies of any report prepared after an investigation of an incident of harassment, intimidation, or bullying;

(3) identify and address patterns of harassment, intimidation, or bullying of students in the school;

(4) review and strengthen school climate and the policies of the school in order to prevent and address harassment, intimidation, or bullying of students;

(5) educate the community, including students, teachers, administrative staff, and parents, to prevent and address harassment, intimidation, or bullying of students;

(6) participate in the training required pursuant to the provisions of P.L.2002, c.83 (C.18A:37-13 et seq.) and other training which the principal or the district anti-bullying coordinator may request;

(7) collaborate with the district anti-bullying coordinator in the collection of district-wide data and in the development of district policies to prevent and address harassment, intimidation, or bullying of students; and

(8) execute such other duties related to harassment, intimidation, and bullying as requested by the principal or district anti-bullying coordinator.

d. The members of a school safety team shall be provided professional development opportunities that address effective practices of successful school climate programs or approaches.

e. Notwithstanding any provision of this section to the contrary, a parent who is a member of the school safety team shall not participate in the activities of the team set forth in paragraph (1), (2), or (3) of subsection c. of this section or any other activities of the team which may compromise the confidentiality of a student.

C.18A:37-22 Program required for teaching certification.

19. a. Beginning with the 2012-2013 school year, all candidates for teaching certification who have completed a teacher preparation program at a regionally-accredited institution of higher education shall have satisfactorily completed a program on harassment, intimidation, and bullying prevention.

b. Beginning with the 2011-2012 school year, any person seeking certification through the alternate route shall, within one year of being employed, satisfactorily complete a program on harassment, intimidation, and bullying prevention.

c. The State Board of Education shall establish the appropriate requirements of the program on harassment, intimidation, and bullying prevention.

d. The State board shall, as part of the professional development requirement established by the State board for public school teachers, require each public school teacher to complete at least two hours of instruction on harassment, intimidation, or bullying prevention in each professional development period.

C.18A:37-23 Program required for administrative and supervisory certification.

20. Beginning with the 2012-2013 school year, all candidates for administrative and supervisory certification shall have satisfactorily completed a program on harassment, intimidation, and bullying prevention.

C.18A:37-24 Development of guidance document.

21. a. The Department of Education, in consultation with the Division on Civil Rights in the Department of Law and Public Safety shall develop a guidance document for use by parents or guardians, students, and school districts to assist in resolving complaints concerning student harassment, intimidation, or bullying behaviors and the implementation of P.L.2002, c.83 (C.18A:37-13 et seq.) by school districts. The document shall include:

(1) a school district's obligations under P.L.2002, c.83 (C.18A:37-13 et seq.);

(2) best practices for the prevention, intervention, and remediation of harassment, intimidation, or bullying in schools, including methods to identify and assist student populations at high risk for harassment, intimidation, or bullying;

(3) a clear explanation of the procedures for petitioning the Commissioner of Education to hear and decide disputes concerning P.L.2002, c.83 (C.18A:37-13 et seq.);

(4) a clear explanation of the Division on Civil Rights' jurisdiction and services in regard to specific types of harassment, intimidation, or bullying; and

(5) a clear explanation of the process for appealing final agency determinations to the Appellate Division of the Superior Court.

b. The guidance document shall be available on the Department of Education's and the Division on Civil Rights' Internet sites and on every school district's Internet site at an easily accessible location.

C.18A:37-25 Establishment of formal protocol for investigating a complaint.

22. a. The Commissioner of Education shall establish a formal protocol pursuant to which the office of the executive county superintendent of schools shall investigate a complaint that documents an allegation of a violation of P.L.2002, c.83 (C.18A:37-13 et seq.) by a school district located within the county, when the complaint has not been adequately addressed on the local level. The office of the executive county superintendent shall report its findings, and if appropriate, issue an order for the school district to develop and implement corrective actions that are specific to the facts of the case.

b. The commissioner shall ensure that the personnel of the office of the executive county superintendent of schools who are responsible for conducting the investigations receive training and technical support on the use of the complaint investigation protocol.

C.18A:37-26 Inservice workshops, training programs.

23. a. The Commissioner of Education, in consultation with recognized experts in school bullying from a cross section of academia, child advocacy organizations, nonprofit organizations, professional associations, and government agencies, shall establish inservice workshops and training programs to train selected public school employees to act as district anti-bullying coordinators and school anti-bullying specialists in accordance with the provisions of P.L.2010, c.122 (C.18A:37-13.1 et al.). The commissioner shall seek to make the workshops and training programs available and administered online through the department's website or other existing online resources. The commissioner shall evaluate the effectiveness of the consulting group on an annual basis. The inservice training programs may utilize the offices of the executive county superintendent of schools, or such other institutions, agencies, or persons as the commissioner deems appropriate. Each board of education shall provide time for the in-service training during the usual school schedule in order to ensure that appropriate personnel are prepared to act in the district as district anti-bullying coordinators and school anti-bullying specialists.

b. Upon completion of the initial inservice training program, the commissioner shall ensure that programs and workshops that reflect the most current information on harassment, intimidation, and bullying in schools are prepared and made available to district anti-bullying coordinators and school anti-bullying specialists at regular intervals.

C.18A:37-27 Development of online tutorial, test.

24. The Commissioner of Education shall develop, in consultation with the Division on Civil Rights, and make available on the Department of Education's Internet site, an online tutorial on harassment, intimidation, and bullying. The online tutorial shall, at a minimum, include best practices in the prevention of harassment, intimidation, and bullying, applicable laws, and such other information that the commissioner determines to be appropriate. The online tutorial shall be accompanied by a test to assess a person's understanding of the information provided in the tutorial.

C.18A:37-28 "Bullying Prevention Fund."

25. There is created a special fund in the Department of Education, which shall be designated the "Bullying Prevention Fund." The fund shall be maintained in a separate account and administered by the commissioner to carry out the provisions of this act. The fund shall consist of: (1) any monies appropriated by the State for the purposes of the fund; (2) any monies donated for the purposes of the fund; and (3) all interest and investment earnings received on monies in the fund. The fund shall be used to offer grants to school districts to provide training on harassment, intimidation, and bullying prevention and on the effective creation of positive school climates.

C.18A:37-29 "Week of Respect"; designated.

26. The week beginning with the first Monday in October of each year is designated as a "Week of Respect" in the State of New Jersey. School districts, in order to recognize the importance of character education, shall observe the week by providing age-appropriate instruction focusing on preventing harassment, intimidation, or bullying as defined in section 2 of P.L.2002, c.83 (C.18A:37-14). Throughout the school year the school district shall provide ongoing age-appropriate instruction on preventing harassment, intimidation, and bullying in accordance with the core curriculum content standards.

C.18A:37-30 Construction of act.

27. Nothing contained in P.L.2010, c.122 (C.18A:37-13.1 et al.) shall be construed as affecting the provisions of any collective bargaining

agreement or individual contract of employment in effect on that act's effective date.

C.18A:3B-68 Adoption of policy by public institutions of higher education.

28. a. A public institution of higher education shall adopt a policy to be included in its student code of conduct prohibiting harassment, intimidation, or bullying. The policy shall contain, at a minimum:

(1) A statement prohibiting harassment, intimidation, or bullying;

(2) Disciplinary actions which may result if a student commits an act of harassment, intimidation, or bullying; and

(3) A definition of harassment, intimidation, or bullying that at a minimum includes any gesture, any written, verbal or physical act, or any electronic communication, whether it be a single incident or a series of incidents, that is reasonably perceived as being motivated either by any actual or perceived characteristic, such as race, color, religion, ancestry, national origin, gender, sexual orientation, gender identity and expression, or a mental, physical or sensory disability, or by any other distinguishing characteristic, that takes place on the property of the institution of higher education or at any function sponsored by the institution of higher education, that substantially disrupts or interferes with the orderly operation of the institution or the rights of other students and that:

(a) a reasonable person should know, under the circumstances, will have the effect of physically or emotionally harming a student or damaging the student's property, or placing a student in reasonable fear of physical or emotional harm to his person or damage to his property;

(b) has the effect of insulting or demeaning any student or group of students; or

(c) creates a hostile educational environment for the student by interfering with a student's education or by severely or pervasively causing physical or emotional harm to the student.

b. The institution shall distribute the policy by email to each student within seven days of the start of each semester and shall post the policy on its website.

C.18A:37-31 Compliance by nonpublic schools encouraged.

29. a. Nonpublic schools are encouraged to comply with the provisions of the "Anti-Bullying Bill of Rights Act," P.L.2002, c.83 (C.18A:37-13 et seq.), as amended and supplemented by P.L.2010, c.122 (C.18A:37-13.1 et al.).

b. In the case of a faith-based nonpublic school, no provision of the "Anti-Bullying Bill of Rights Act," P.L.2002, c.83 (C.18A:37-13 et seq.), as

amended and supplemented by P.L.2010, c.122 (C.18A:37-13.1 et al.), shall be interpreted to prohibit or abridge the legitimate statement, expression or free exercise of the beliefs or tenets of that faith by the religious organization operating the school or by the school's faculty, staff, or student body.

C.18A:37-32 Inapplicability to certain situations.

30. Nothing contained in the "Anti-Bullying Bill of Rights Act," P.L.2002, c.83 (C.18A:37-13 et seq.), as amended and supplemented by P.L.2010, c.122 (C.18A:37-13.1 et al.), shall alter or reduce the rights of a student with a disability with regard to disciplinary actions or to general or special educational services and supports.

31. This act shall take effect in the first school year following enactment, but the Commissioner of Education may take such anticipatory administrative action in advance thereof as shall be necessary for the implementation of this act.

Approved January 5, 2011.

CHAPTER 123

AN ACT concerning the Business Retention and Relocation Assistance Grant Program, amending P.L.1996, c.25 and P.L.2004, c.65, and repealing section 11 of P.L.1996, c.25.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Section 2 of P.L.1996, c.25 (C.34:1B-113) is amended to read as follows:

C.34:1B-113 Definitions relative to business retention and relocation assistance.

2. As used in this act:

"Affiliate" means an entity that directly or indirectly controls, is under common control with, or is controlled by the business. Control exists in all cases in which the entity is a member of a controlled group of corporations as defined pursuant to section 1563 of the Internal Revenue Code of 1986 (26 U.S.C. s.1563) or the entity is an organization in a group of organizations under common control as defined pursuant to subsection (b) or (c) of section 414 of the Internal Revenue Code of 1986 (26 U.S.C. s.414). An entity may establish by clear and convincing evidence, as determined by the

Director of the Division of Taxation in the Department of the Treasury, that control exists in situations involving lesser percentages of ownership than required by those statutes;

"Authority" means the New Jersey Economic Development Authority created pursuant to P.L.1974, c.80 (C.34:1B-1 et seq.);

"Business retention or relocation grant of tax credits" or "grant of tax credits" means a grant which consists of the value of corporation business tax credits against the liability imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) or credits against the taxes imposed on insurers pursuant to P.L.1945, c.132 (C.54:18A-1 et al.), section 1 of P.L.1950, c.231 (C.17:32-15), and N.J.S.17B:23-5, provided to fund a portion of retention and relocation costs pursuant to P.L.1996, c.25 (C.34:1B-112 et seq.);

"Business" means an employer located in this State that has operated continuously in the State, in whole or in part, in its current form or as a predecessor entity for at least 10 years prior to filing an application pursuant to P.L.1996, c.25 (C.34:1B-112 et seq.) and which is subject to the provisions of R.S.43:21-1 et seq. and may include a sole proprietorship, a partnership, or a corporation that has made an election under Subchapter S of Chapter One of Subtitle A of the Internal Revenue Code of 1986, or any other business entity through which income flows as a distributive share to its owners, limited liability company, nonprofit corporation, or any other form of business organization located either within or outside the State. A business shall include an affiliate of the business if that business applies for a credit based upon any capital investment made by an affiliate or based upon retained full-time jobs of an affiliate;

"Capital investment" means expenses that the business incurs following its submission of an application to the authority pursuant to section 5 of P.L.1996, c.25 (C.34:1B-116), but prior to the Capital Investment Completion Date, as shall be defined in the project agreement, for: (1) the site preparation and construction, renovation, improvement, equipping of, or obtaining and installing fixtures and machinery, apparatus or equipment in, a newly constructed, renovated or improved building, structure, facility, or improvement to real property in this State; and (2) obtaining and installing fixtures and machinery, apparatus or equipment in a building, structure, or facility in this State. Provided however, that "capital investment" shall not include soft costs such as financing and design, furniture or decorative items such as artwork or plants, or office equipment if the office equipment is property with a recovery period of less than five years. The recovery period of any property, for purposes of this section, shall be determined as of the date such property is first placed in service or use in this State by the

business, determined in accordance with section 168 of the federal Internal Revenue Code of 1986 (26 U.S.C. s.168);

"Certificate of compliance" means a certificate issued by the authority pursuant to section 9 of P.L.1996, c.25 (C.34:1B-120);

"Chief executive officer" means the chief executive officer of the New Jersey Economic Development Authority;

"Commitment duration" means the tax credit term and five years from the end of the tax credit term specified in the project agreement entered into pursuant to section 5 of P.L.1996, c.25 (C.34:1B-116);

"Designated industry" means an industry identified by the authority as desirable for the State to maintain, which may be designated and amended via the promulgation of rules by the authority to reflect changing market conditions;

"Designated urban center" means an urban center designated in the State Development and Redevelopment Plan adopted by the State Planning Commission;

"Eligible position" means a full-time position retained by a business in this State for which a business provides employee health benefits under a group health plan as defined under section 14 of P.L.1997, c.146 (C.17B:27-54), a health benefits plan as defined under section 1 of P.L.1992, c.162 (C.17B:27A-17), or a policy or contract of health insurance covering more than one person issued pursuant to Article 2 of chapter 27 of Title 17B of the New Jersey Statutes;

"Full-time employee" means a person employed by the business for consideration for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice, as determined by the authority, as full-time employment, or a person who is employed by a professional employer organization pursuant to an employee leasing agreement between the business and the professional employer organization, in accordance with P.L.2001, c.260 (C.34:8-67 et seq.) for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice, as determined by the authority, as full-time employment, and whose wages are subject to withholding as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. or an employee who is a resident of another State but whose income is not subject to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. or who is a partner of a business who works for the partnership for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice, as determined by the authority, as full-time employment, and whose distributive share of income, gain, loss, or deduction, or whose guaranteed payments, or

any combination thereof, is subject to the payment of estimated taxes, as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. "Full-time employee" shall not include any person who works as an independent contractor or on a consulting basis for the business;

"New business location" means the premises to which a business will relocate that the business has either purchased or built or for which the business has entered into a purchase agreement or a written lease for a period of no less than the commitment duration or eight years, whichever is greater, from the date of relocation. A "new business location" also means the business's current location or locations if the business makes a capital investment equal to the total value of the business retention or relocation grant of tax credits to the business at that location or locations;

"Program" means the Business Retention and Relocation Assistance Grant Program created pursuant to P.L.1996, c.25 (C.34:1B-112 et seq.);

"Project agreement" means an agreement between a business and the authority that sets the forecasted schedule for completion and occupancy of the project, the date the commitment duration shall commence, the amount and tax credit term of the applicable grant of tax credits, and other such provisions which further the purposes of P.L.1996, c.25 (C.34:1B-112 et seq.);

"Retained full-time job" means an eligible position that currently exists in New Jersey and is filled by a full-time employee but which, because of a potential relocation by the business, is at risk of being lost to another state or country. For the purposes of determining a number of retained full-time jobs, the eligible positions of an affiliate shall be considered the eligible positions of the business;

"Tax credit term" means the period of time commencing with the first issuance of tax credits and continuing during the period in which the recipient of a grant of tax credits is eligible to apply the tax credits pursuant to section 7 of P.L.2004, c.65 (C.34:1B-115.3); and

"Yearly tax credit amount" means $1,500 times the number of retained full-time jobs. "Yearly tax credit amount" does not include the amount of any bonus award authorized pursuant to section 5 of P.L.2004, c.65 (C.34:1B-115.1).

2. Section 3 of P.L.1996, c.25 (C.34:1B-114) is amended to read as follows:

C.34:1B-114 Business Retention and Relocation Assistance Grant Program.

3. The Business Retention and Relocation Assistance Grant Program is hereby established as a program under the jurisdiction of the New Jersey

Economic Development Authority and shall be administered by the authority. The purpose of the program is to encourage economic development and job creation and to preserve jobs that currently exist in New Jersey but which are in danger of being relocated to premises outside of the State. To implement that purpose, and to the extent that funding for the program is available, the program may provide grants of tax credits. To be eligible for any grant of tax credits pursuant to P.L.1996, c.25 (C.34:1B-112 et seq.), a business shall demonstrate to the authority, at the time of application, that the grant of tax credits and resultant retention of full-time jobs and any capital investment will yield a net positive benefit to the State. The net benefit resulting from the retention of full-time jobs and any capital investment by a business that has had grant pre-application meetings with the authority and has executed contracts relating to the new business location during the period commencing May 1, 2010 until the enactment of P.L.2010, c.123, shall be calculated from the date of the initial grant pre-application meeting.

3. Section 4 of P.L.1996, c.25 (C.34:1B-115) is amended to read as follows:

C.34:1B-115 Grant of tax credits; qualifications.

4. a. To qualify for a grant of tax credits, a business shall enter into an agreement to undertake a project to:

(1) relocate or maintain a minimum of 50 retained full-time jobs from one or more locations within this State to a new business location or locations in this State; and

(2) maintain the retained full-time jobs pursuant to the project agreement for the commitment duration.

b. A project that consists solely of point-of-final-purchase retail facilities shall not be eligible for a grant of tax credits. If a project consists of both point-of-final-purchase retail facilities and non-retail facilities, only the portion of the project consisting of non-retail facilities shall be eligible for a grant of tax credits. If a warehouse facility is part of a point-of-final-purchase retail facility and supplies only that facility, the warehouse facility shall not be eligible for a grant of tax credits. For the purposes of this section, catalog distribution centers shall not be considered point-of-final-purchase retail facilities.

4. Section 5 of P.L.2004, c.65 (C.34:1B-115.1) is amended to read as follows:

C.34:1B-115.1 Bonus awards to certain businesses.

5. a. In addition to any grant of tax credits determined pursuant to section 7 of P.L.2004, c.65 (C.34:1B-115.3), a bonus award equivalent to 50% of the amount of the original grant of tax credits shall be made to any business that relocates more than 2,000 full-time employees covered by the project agreement from one or more locations outside of a designated urban center into a designated urban center, provided that all other applicable requirements of P.L.1996, c.25 (C.34:1B-112 et seq.) are satisfied; and provided further that no grant of tax credits shall be awarded pursuant to this section for any job that is moved from its current location in an urban enterprise zone designated pursuant to the "New Jersey Urban Enterprise Zones Act," P.L.1983, c.303 (C.52:27H-60 et seq.) to a location that is not within an urban enterprise zone; however, that if the move from the urban enterprise zone is to a facility already owned or leased by the same business and that business already employs at least the same number of persons as those being relocated from the urban enterprise zone a grant of tax credits may still be awarded pursuant to this section.

b. In addition to any grant of tax credits determined pursuant to section 7 of P.L.2004, c.65 (C.34:1B-115.3), and in addition to any bonus award pursuant to subsection a. of this section, a bonus award equivalent to 50% of the amount of the grant of tax credits pursuant to section 7 of P.L.2004, c.65 (C.34:1B-115.3) shall be made to any business that makes a capital investment in an amount that is at least twice that of the total value of the grant of tax credits granted pursuant to section 7 of P.L.2004, c.65 (C.34:1B-115.3) and the grant of tax credits pursuant to this subsection. A bonus award made pursuant to this subsection may be limited, so that when added to the tax credits granted pursuant to section 7 of P.L.2004, c. 65 (C.34:1B-115.3), the total amount shall not exceed 50% of the amount of the capital investment in this State.

5. Section 6 of P.L. 2004, c.65 (C.34:1B-115.2) is amended to read as follows:

C.34:1B-115.2 Qualification for grant of tax credits.

6. To qualify for a grant of tax credits pursuant to P.L.1996, c.25 (C.34:1B-112 et seq.), a business shall demonstrate that the receipt of assistance pursuant to P.L.1996, c.25, will be a material factor in the business' decision not to relocate outside of New Jersey; provided however, that a business that relocates 1,500 or more retained full-time jobs covered by a project agreement from outside of a designated urban center to one or more

new locations within a designated urban center shall not be required to make such a demonstration if the business applies for a grant of tax credits within six months of signing its lease or purchase agreement. A business that has had grant pre-application meetings with the authority and has executed contracts relating to the new business location during the period commencing May 1, 2010 until the enactment of P.L.2010, c.123 shall not be deemed ineligible for the grant due to the material factor requirement.

6. Section 7 of P.L.2004, c.65 (C.34:1B-115.3) is amended to read as follows:

C.34:1B-115.3 Limit on total value of grants of tax credits; approval schedule.

7. a. The total value of the grants of tax credits, approved by the authority pursuant to P.L.1996, c.25 (C.34:1B-112 et seq.), that may be applied against tax liability in a fiscal year shall not exceed an aggregate annual limit of $20,000,000. The total value of the grants of tax credits, issued pursuant to P.L.1996, c.25 (C.34:1B-112 et seq.), that a single business may apply against its tax liability shall not exceed an aggregate annual limit of $10,000,000 in a fiscal year. A tax credit issued pursuant to P.L.1996, c.25 may be applied against liability in the single tax period in which the tax credit or portion of the tax credit may be applied as prescribed by the project agreement and as set forth in subsection b. of this section and shall expire thereafter.

b. Subject to the limitation set forth in subsection a. of this section, grants of tax credits shall be approved for qualifying businesses according to the following schedule, and shall be issued upon the execution and satisfaction of the requirements of the project agreement between the authority and the business with an approved project:

(1) for a project that covers a business relocating or retaining 50 to 250 full-time employees, a grant of tax credits shall be for the yearly tax credit amount plus any applicable bonus award determined pursuant to section 5 of P.L.2004, c.65 (C.34:1B-115.1), and may be applied against liability in the tax period in which the tax credit is issued;

(2) for a project that covers a business relocating or retaining 251 to 400 full-time employees, a grant of tax credits shall be for two times the yearly tax credit amount plus any applicable bonus award determined pursuant to section 5 of P.L.2004, c.65 (C.34:1B-115.1), and may be applied against liability in the tax period in which the tax credit is issued and the following tax period, for one-half of the total grant award per tax period, provided that the use of the credit must be accompanied by a certificate of compliance;

(3) for a project that covers a business relocating or retaining 401 to 600 full-time employees, a grant of tax credits shall be for three times the yearly tax credit amount plus any applicable bonus award determined pursuant to section 5 of P.L.2004, c.65 (C.34:1B-115.1) and may be applied against liability in the tax period in which the tax credit is issued and the following two tax periods, for one-third of the total grant award per tax period, provided that the use of the credit must be accompanied by a certificate of compliance;

(4) for a project that covers a business relocating or retaining 601 to 800 full-time employees, a grant of tax credits shall be for four times the yearly tax credit amount plus any applicable bonus award determined pursuant to section 5 of P.L.2004, c.65 (C.34:1B-115.1) and may be applied against liability in the tax period in which the tax credit is issued and the following three tax periods, for one-fourth of the total grant award per tax period, provided that the use of the credit must be accompanied by a certificate of compliance;

(5) for a project that covers a business relocating or retaining 801 to 1,000 full-time employees, a grant of tax credits shall be for five times the yearly tax credit amount plus any applicable bonus award determined pursuant to section 5 of P.L.2004, c.65 (C.34:1B-115.1) and may be applied against liability in the tax period in which the tax credit is issued and the following four tax periods for one-fifth of the total grant award per tax period, provided that the use of the credit must be accompanied by a certificate of compliance; and

(6) for a project that covers a business relocating or retaining 1,001 or more full-time employees, a grant of tax credits shall be for six times the yearly tax credit amount plus any applicable bonus award determined pursuant to section 5 of P.L.2004, c.65 (C.34:1B-115.1) and may be applied against liability in the tax period in which the tax credit is issued and the following five tax periods, for one-sixth of the total grant award per tax period, provided that the use of the credit must be accompanied by a certificate of compliance.

c. If the approval of a grant of tax credits pursuant to this section would exceed the $20,000,000 aggregate annual limit, the authority may award a smaller grant of tax credits or no grants of tax credits, as necessary to comply with the aggregate annual limit.

7. Section 5 of P.L.1996, c.25 (C.34:1B-116) is amended to read as follows:

C.34:1B-116 Grant application.

5. Each business seeking a grant of tax credits for a project shall submit an application for approval of the project to the authority in a form and manner prescribed in regulations adopted by the authority. The application must be submitted to the authority for approval at least 45 days prior to moving to the new business location; provided however, a business relocating 1,500 or more retained full-time jobs to one or more new locations within a designated urban center shall, if relocating to a leased location, submit an application within six months of executing its lease. A business that has had grant pre-application meetings with the authority and has executed contracts relating to the new business location during the period commencing May 1, 2010 until the enactment of P.L.2010, c.123 shall not be deemed ineligible for the grant due to the requirement to apply 45 days before moving to the new business location. The application for approval of a project shall include:

a. A schedule of short-term and long-term employment projections of the business in the State based upon the relocation;

b. (Deleted by amendment, P.L.2004, c.65.)

c. Terms of any lease agreements, either existing or proposed, or details of the purchase or building of the new business location, if applicable;

d. An estimate of the projected retained State tax revenues resulting from the relocation;

e. A description of the type of contribution the business can make to the long-term growth of the State's economy and a description of the potential impact on the State's economy if the jobs are not retained;

f. Evidence that the business or a predecessor entity has been operating, in whole or in part, in this State for at least 10 years prior to the filing of the application;

g. Evidence of alternative relocation plans, such as an analysis of the cost effectiveness of remaining in this State versus relocation under the alternative plans;

h. (Deleted by amendment, P.L.2010, c.123); and

i. Any other necessary and relevant information as determined by the authority.

The authority staff may provide whatever assistance the authority deems appropriate in the preparation of an application for approval of a project and may issue grants of tax credits pursuant to the project agreement entered between the authority and the business.

The project agreement shall include terms establishing the starting date, or event that will determine the starting date, of the commitment duration

and any other terms or conditions as determined by the authority, which shall include the number of full-time jobs that must be maintained in the State by the business over the commitment duration.

8. Section 6 of P.L.1996, c.25 (C.34:1B-117) is amended to read as follows:

C.34:1B-117 Conditions for issuance of tax credits.

6. No tax credits issued as a grant of tax credits under P.L.1996, c.25 (C.34:1B-112 et seq.) may be applied by the business against liability until the State Treasurer has certified that the amount of retained State tax revenue from the business for the tax period prior to the period in which the credits will be applied pursuant to P.L.1996, c.25 (C.34:1B-112 et seq.), equals or exceeds the amount of the tax credits.

9. Section 7 of P.L.1996, c.25 (C.34:1B-118) is amended to read as follows:

C.34:1B-118 Grant limitations.

7. a. A business that is receiving a business employment incentive grant pursuant to the provisions of P.L.1996, c.26 (C.34:1B-124 et al.) shall not be eligible to receive a grant of tax credits under P.L.1996, c.25 (C.34:1B-112 et seq.) with respect to a job which is included in the calculation of a grant pursuant to P.L.1996, c.26.

b. A business that is receiving any other grant by operation of State law shall be eligible to receive a grant of tax credits under P.L.1996, c.25 (C.34:1B-112 et seq.); provided, however, that a business that is receiving another State grant shall not be eligible to receive assistance with respect to any job that is currently the subject of any other State grant, except for grants from the Office of Customized Training pursuant to the "1992 New Jersey Employment and Workforce Development Act," P.L.1992, c.43 (C.34:15D-1 et seq.), and provided further that a business shall not receive an amount as a grant of tax credits pursuant to P.L.1996, c.25 (C.34:1B-112 et seq.) unless the State will realize a net positive benefit from the grant of tax credits and resultant retention of full-time jobs and any capital investment when combined with such other grants, except upon the approval of the State Treasurer. Amounts received as grants from the Office of Customized Training pursuant to the "1992 New Jersey Employment and Workforce Development Act," P.L.1992, c.43 (C.34:15D-1 et seq.), shall be excluded from the calculation of the total amount permitted under this subsection.

10. Section 11 of P.L.2004, c.65 (C.34:1B-118.1) is amended to read as follows:

C.34:1B-118.1 Award, amount of grant; factors.

11. In considering the award and the amount of any grant of tax credits made pursuant to P.L.1996, c.25 (C.34:1B-112 et seq.), the authority may consider, as part of the authority's overall review process, the following factors:

a. The number of full-time jobs retained;

b. The quality of the full-time jobs retained, including but not limited to the salaries and benefits provided to retained full-time employees;

c. Any capital investments made by the business at the new business location;

d. The nature of the business' operations, including but not limited to whether the business is a designated industry;

e. The potential impact on the State if the business were to relocate to another state;

f. The site of the new business location and its consistency with the smart growth goals, strategies and policies of the State Development and Redevelopment Plan established pursuant to section 5 of P.L.1985, c.398 (C.52:18A-200);

g. Whether positions average at least 1.5 times the minimum hourly wage during the commitment duration; and

h. The duration and extent of past operations by the business in New Jersey and any other information indicating the business' level of commitment to the State and the likelihood that the business will continue to operate in this State in the future.

11. Section 8 of P.L.1996, c.25 (C.34:1B-119) is amended to read as follows:

C.34:1B-119 Rules, regulations relative to program.

8. The authority shall, after consultation with the Director of the Division of Taxation, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), adopt rules and regulations necessary to govern the proper conduct and operation of the program consistent with the provisions of P.L.1996, c.25 (C.34:1B-112 et seq.) including, but not limited to, a procedure for recapturing relocation grants of tax credits awarded pursuant to P.L.1996, c.25 (C.34:1B-112 et seq.) in those cases in which the authority determines that the business receiving the grant of tax credits fails to

meet or comply with any condition or requirement attached by the authority to the receipt of the grant of tax credits or included in rules and regulations adopted by the authority governing the implementation of the program. The Director of the Division of Taxation, after consultation with the authority, is authorized to promulgate such rules and regulations as may be necessary to effect the tax-related provisions of the program.

12. Section 9 of P.L.1996, c.25 (C.34:1B-120) is amended to read as follows:

C.34:1B-120 Certificate of compliance indicating amount of tax credits.

9. As determined by the authority, a business which is awarded a grant of tax credits under P.L.1996, c.25 (C.34:1B-112 et seq.) shall submit annually, no later than March 1st of each year, commencing in the year in which the grant of tax credits is issued and for the remainder of the commitment duration, a certificate of compliance that indicates that the business continues to maintain the number of retained full-time jobs as specified in the project agreement. Upon receipt and review thereof during the tax credit term, the authority shall issue a certificate of compliance indicating the amount of tax credits that the business may apply against liability pursuant to section 7 of P.L.2004, c.65 (C.34:1B-115.3). Any reduction in the number of retained full-time jobs below the number prescribed under the terms of the project agreement shall proportionately reduce the amount of tax credits the business may apply against liability in that tax period and the credits that may no longer be applied for that tax period shall be forfeited. However, if in any tax period, the number of retained full-time jobs drops below the minimum number of retained full-time jobs indicated in the paragraph of subsection b. of section 7 of P.L.2004, c.65 (C.34:1B-115.3) pursuant to which the project agreement was executed such that the business would no longer be eligible to apply the credits for the number of years for which it was approved, then the authority shall reduce the amount of tax credits the business may apply against liability and the number of years in which the business may apply the tax credits. The grant shall be subject to recapture provisions pursuant to the project agreement.

13. Section 14 of P.L.2004, c.65 (C.34:1B-120.1) is amended to read as follows:

C.34:1B-120.1 Rules for recapture of tax credits.

14. The authority is authorized to pursue, and shall adopt rules for, the recapture of all, or a portion of, the grant of tax credits, based on criteria

established by the authority pursuant to regulation or under the terms of the project agreement. The rules shall allow for the authority to pursue the full or partial recapture or, in its discretion, to notify the Director of the Division of Taxation in the Department of the Treasury, who shall issue a recapture assessment which shall be based upon the proportionate value of the grant of tax credits that corresponds to the amount and period of noncompliance, in which case, the recapture of funds shall be subject to the State Uniform Tax Procedure Law, R.S.54:48-1 et seq. Recaptured funds shall be deposited in the General Fund of the State.

14. Section 17 of P.L.2004, c.65 (C.34:1B-120.2) is amended to read as follows:

C.34:1B-120.2 Corporation business tax, insurance premiums tax credits.

17. a. The authority shall establish a corporation business tax credit and insurance premiums tax credit certificate transfer program to allow businesses in this State with unused amounts of tax credits issued under P.L.1996, c.25 (C.34:1B-112 et seq.), and otherwise allowable, that cannot be applied by the business to which originally issued before the expiration of the credit, to surrender those tax credits for use by other corporation business and insurance premiums taxpayers in this State. The tax credits may be used on the corporation business tax and insurance premiums tax returns to be filed by those taxpayers in exchange for private financial assistance to be provided by the corporation business taxpayer or insurance premiums taxpayer that is the recipient of the corporation business tax credit certificate or insurance premiums tax credit certificate to assist in the funding of costs incurred by the relocating business.

b. Businesses may apply to the authority and the Director of the Division of Taxation for a tax credit transfer certificate, covering one or more years. Upon receipt thereof, the business may sell or assign the tax credit certificate in exchange for private financial assistance to be made by the purchaser in an amount equal to at least 75% of the amount of the surrendered tax credit of a business relocating in the State. The private financial assistance shall assist in funding expenses incurred in connection with the operation of the business in the State, including but not limited to the expenses of fixed assets, such as the construction and acquisition and development of real estate, materials, start-up, tenant fit-out, working capital, salaries, research and development expenditures and any other expenses determined by the authority to be necessary to carry out the purposes of P.L.1996, c.25 (C.34:1B-112 et seq.).

c. The authority shall establish procedures to facilitate such transfers and encourage liquidity and simplicity in the market for the purchase and sale of such certificates, including, in the authority's discretion, coordinating the applications for surrender and acquisition of unused but otherwise allowable tax credits pursuant to this section in a manner that can best stimulate and encourage the extension of private financial assistance to businesses in this State.

d. The authority shall, in consultation with the Director of the Division of Taxation, develop criteria for the approval or disapproval of applications.

15. Section 10 of P.L.1996, c.25 (C.34:1B-121) is amended to read as follows:

C.34:1B-121 Annual report on program.

10. The authority shall prepare and transmit to the Governor and the Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), on or before November 1st of each year, a report concerning the impact of the program on job retention in the State.

Repealer.

16. Section 11 of P.L.1996, c.25 (C.34:1B-122) is repealed.

17. This act shall take effect immediately.

Approved January 6, 2011.

JOINT RESOLUTIONS

(1357)

JOINT RESOLUTION NO. 1

A JOINT RESOLUTION designating September 26 of each year as "Mesothelioma Awareness Day" in New Jersey.

WHEREAS, Little is known about mesothelioma, a rare but deadly form of cancer that involves the mesothelium, or the cells that line an organ, usually the lungs, abdominal organs and heart; and

WHEREAS, Three thousand Americans die from mesothelioma each year, with between 2,500 and 3,000 new cases of mesothelioma diagnosed each year; and

WHEREAS, The main cause of mesothelioma is exposure to asbestos, a material used in the construction of virtually all office buildings, public schools, and homes built before 1975; and

WHEREAS, Most of those suffering from mesothelioma held jobs where they were repeatedly exposed to asbestos; 30 percent of all mesothelioma victims worked on U.S. Navy ships or shipyards, where asbestos was frequently used; and

WHEREAS, Although most people with mesothelioma were repeatedly exposed to asbestos, exposure to asbestos for as little as one month can result in a person developing the disease 30 years later; and

WHEREAS, It is believed that many firefighters, police officers and rescue workers exposed to asbestos-contaminated dust at Ground Zero following the 9-11 attacks could be at great risk for contracting mesothelioma in the future; and

WHEREAS, There is no cure or standard treatment for mesothelioma and the expected survival time of those diagnosed with the disease ranges from four to fourteen months; and

WHEREAS, The Mesothelioma Applied Research Foundation, established in 1999, has made early progress in developing more effective treatments to combat the disease; and

WHEREAS, New Jersey owes it to those suffering from mesothelioma and their families, as well as those who may tragically develop the disease, to raise public awareness about mesothelioma and the need to develop effective treatments for the disease; now, therefore,

BE IT RESOLVED *by the Senate and General Assembly of the State of New Jersey:*

C.36:2-155 "Mesothelioma Awareness Day," September 26; designated.

1. September 26 of each year is designated as "Mesothelioma Awareness Day" in New Jersey, in order to promote increased public awareness about Mesothelioma, its causes and symptoms, and the need for effective treatments for the disease.

C.36:2-156 Annual observance.

2. The Governor is requested to annually issue a proclamation calling upon public officials and citizens of this State to observe "Mesothelioma Awareness Day" with appropriate activities and programs.

3. This joint resolution shall take effect immediately.

Approved August 18, 2010.

JOINT RESOLUTION NO. 2

A JOINT RESOLUTION designating September of each year as "Pain Awareness Month" in New Jersey.

WHEREAS, Physical pain affects tens of millions of Americans, and untreated or inadequately treated pain can harm an individual's quality of life by diminishing that person's ability to function, socialize and be productive; and

WHEREAS, Despite the number of Americans who suffer from pain on a regular basis, access to appropriate and effective pain care remains a barrier for many Americans; and

WHEREAS, Thousands of Americans and citizens of this State are reluctantly choosing to live with and suffer from pain because they may not have health care coverage, access to appropriately trained pain specialists, or prescribed pain treatments to help relieve their suffering; and

WHEREAS, Pain takes an economic toll on our country and our State, costing billions of dollars each year in medical expenses, lost wages, reduced productivity and other costs; and

WHEREAS, Improved pain management education and an effective multidisciplinary treatment approach can help reduce suffering and remove barriers to pain-free living; and

WHEREAS, The New Jersey Chapter of the American Cancer Society, the New Jersey Pain Initiative, and a variety of other professional and consumer organizations located throughout New Jersey are committed to

advocating for citizens of our State who are experiencing and living with pain, either as a condition in and of itself, or as a condition associated with numerous health disorders including: cancer, sickle cell anemia, Parkinson's disease, arthritis and others; and

WHEREAS, The leaders and members of these organizations are committed to increasing awareness among State residents regarding pain management initiatives and promoting access to appropriate treatment for all New Jersey residents who suffer from acute or chronic pain; and

WHEREAS, All residents in this State will benefit from increased public awareness about acute and chronic pain, and the importance of appropriate and effective pain management; now, therefore,

BE IT RESOLVED *by the Senate and General Assembly of the State of New Jersey:*

C.36:2-157 "Pain Awareness Month," September; designated.

1. September of each year is designated as "Pain Awareness Month" in New Jersey.

C.36:2-158 Annual observance.

2. The Governor is requested to annually issue a proclamation calling upon public officials, health care providers and the citizens of this State to observe "Pain Awareness Month." The Governor is also urged to encourage these individuals to learn more about pain management by participating in appropriate activities and programs designed to educate the citizens of this State about acute and chronic pain, and the importance of appropriate and effective pain management.

3. This joint resolution shall take effect immediately.

Approved August 18, 2010.

JOINT RESOLUTION NO. 3

A JOINT RESOLUTION designating August of each year as "Immunization Awareness Month."

WHEREAS, Vaccines are among the most successful and cost-effective public health tools available for preventing disease and death; and

WHEREAS, National immunization levels are at or near record highs for most vaccines and most vaccine-preventable diseases have been reduced by 99% or more; and

WHEREAS, Individuals and health care providers in every community have a responsibility to ensure that everyone is immunized on time and receives the full schedule of vaccinations required to protect them from serious diseases; and

WHEREAS, The viruses and bacteria that cause vaccine-preventable diseases circulate in our communities and can infect people who are not protected by vaccines; and

WHEREAS, Maintaining high immunization rates protects the entire community by interrupting transmission of disease-causing viruses or bacteria; and

WHEREAS, Every year in New Jersey, over 100,000 babies are born, each one of whom deserves on-time immunizations to protect them against 14 vaccine-preventable diseases before age two; and

WHEREAS, Each year approximately 70,000 young adults will go to a New Jersey college for the first time and are at risk of acquiring bacterial meningococcal disease and other diseases unless they have been appropriately immunized as adolescents; and

WHEREAS, Annually, 50,000 to 70,000 adults die in the United States from vaccine-preventable diseases; and

WHEREAS, Health care providers play a critical role in educating their patients about the importance of immunization and ensuring that their patients are fully immunized; and

WHEREAS, A month profiling the importance of immunization in New Jersey would increase public awareness that many diseases are effectively and safely prevented or controlled by immunization, thereby reducing the burden of illness in our communities; now, therefore,

BE IT RESOLVED *by the Senate and General Assembly of the State of New Jersey:*

C.36:2-159 "Immunization Awareness Month," August; designated.

1. The month of August of each year is designated as "Immunization Awareness Month" in New Jersey in order to promote public awareness about the safety and effectiveness of immunizations and their importance for preventing disease and death.

C.36:2-160 Annual observance.

2. The Governor shall annually issue a proclamation calling upon public officials and the citizens of the State to observe the month with appropriate activities and programs.

3. This joint resolution shall take effect immediately.

Approved September 10, 2010.

JOINT RESOLUTION NO. 4

A JOINT RESOLUTION designating the third full week of September in each year as "Fall Prevention Awareness Week."

WHEREAS, Among people 65 years of age and older, falls are the leading cause of injury-related deaths; every 15 seconds, an injury from a fall is treated in an emergency room, and every 35 minutes, a senior citizen dies following a fall; and

WHEREAS, It is estimated that across the United States, one third of those age 65 and older, and one half of those over 80 years of age, will experience a fall each year; and

WHEREAS, It is estimated that some 1.3 million persons in New Jersey are 65 years of age and older; and that the number of people in this age category nationwide will increase from 35 million in 2000 to 55 million in 2020; and

WHEREAS, Falls cause disability and impair senior citizens' quality of life; and people often develop a fear of falling and restrict their activities, which can lead to a loss of strength and balance and increase their chances of falling; and

WHEREAS, Falling, and the fear of falling, can lead to feelings of depression and hopelessness, as well as a loss of mobility and functional independence; and

WHEREAS, The causes of falls vary, with contributing factors including a lack of strength in the lower extremities, the use of four or more medications, reduced vision, chronic health problems, and unsafe home conditions; and

WHEREAS, More than $26 billion is spent annually to treat injuries from falls, and this amount is expected to reach $54.9 billion by 2020; the

average fall-related hospitalization costs the health care system $17,500, and the federal Centers for Disease Control and Prevention (CDC) estimates that if the rate of increase in falls is not slowed, annual direct treatment costs for fall-related injuries under the federal Medicare program will reach $32.4 billion by 2020; and

WHEREAS, Falls are not an inevitable consequence of aging, and effective prevention programs can be offered in clinical and community settings that engage senior citizens and their caregivers; and

WHEREAS, Health care providers can identify patients at risk of falling, review and modify medications, and ensure that older adults receive vision screenings and eyeglasses; while affordable exercise programs can help senior citizens improve their strength and balance, and other approaches can help reduce fall hazards in homes and public places; and

WHEREAS, CDC has worked with the federal Administration on Aging to identify community-based fall prevention programs that teach senior citizens how to reduce their risk of falling by exercising and changing behavior; CDC also supports the Falls Free Coalition, which is a group of organizations and state coalitions that is working to implement the National Action Plan for falls prevention and to reduce the number of falls and fall-related injuries among older adults; and CDC provides funding to the National Council on Aging to convene state fall prevention coalition workgroups to exchange ideas and best practices; and

WHEREAS, State fall coalitions in 30 states are working to raise public awareness and promote policies related to reducing falls among older adults, involving various sectors and agencies that deal with diverse issues such as health, housing, and transportation; and

WHEREAS, The successful implementation of fall prevention strategies can have a positive impact on the quality of life for senior citizens in our State and nationwide by helping them to remain healthy, active, and independent; and

WHEREAS, Raising public awareness about falls can motivate prevention efforts; and, in 2009, some 22 states issued a formal proclamation recognizing September 22 as "National Fall Prevention Awareness Day," which highlighted proactive steps that older Americans, their caregivers, and community members can take to reduce falls, while several states extended this effort by creating "Fall Prevention Awareness Week"; and

WHEREAS, The State of New Jersey should follow up the efforts made by the Department of Health and Senior Services to offer evidence-based fall prevention programs throughout the State in collaboration with pro-

viders of services to senior citizens and persons with disabilities, and to expand the effort to enhance public awareness of this important issue and ways in which to prevent falls and fall-related injuries, the need for which was recognized in 2009 when the Governor issued a proclamation designating September 20 through 26 as "Fall Prevention Awareness Week"; now, therefore,

BE IT RESOLVED *by the Senate and General Assembly of the State of New Jersey:*

C.36:2-161 "Fall Prevention Week"; designated.

1. The third full week of September in each year is designated as "Fall Prevention Awareness Week."

C.36:2-162 Annual observance.

2. The Governor is requested to annually issue a proclamation calling upon public officials, health care professionals, and the citizens of this State to observe the week with appropriate activities and programs designed to raise public awareness of this significant community health issue and effective measures for preventing falls among the senior citizens of this State.

3. This joint resolution shall take effect immediately.

Approved November 3, 2010.

JOINT RESOLUTION NO. 5

A JOINT RESOLUTION designating the last full week in April as "Crime Victims' Rights Week" in New Jersey.

WHEREAS, According to the National Crime Victimization Survey, in 2008, residents of the United States 12 years of age or older were victims of more than 21 million crimes, which consisted of 4.9 million violent crimes, 16.3 million property crimes, and 136,700 personal thefts; and

WHEREAS, According to the National Crime Victims' Rights Week Resource Guide, in 2008, 203,830 rapes or sexual assaults were committed against victims 12 years of age or older, and more than half of these sex crimes were unreported; and

WHEREAS, According to the New Jersey 2010 Uniform Crime Report, in 2008, 28,281 violent crimes were committed and 198,896 nonviolent crimes were committed, which amounts to one violent crime committed against victims every 18 minutes and 35 seconds and one nonviolent crime committed against victims every two minutes and 39 seconds; and

WHEREAS, All fifty states and the District of Columbia have passed laws giving crime victims certain legal rights, including: the right to attend and be heard at criminal justice proceedings; the right to be notified of available services and of the status of the offender; and the right to receive an order of restitution and apply for compensation; and

WHEREAS, In 2004, the United States Congress passed the Crime Victims' Rights Act, which gives victims of violent crime the right to be present at federal criminal justice public proceedings, the right to be notified at critical points in the justice process, and the legal standing to have those rights enforced; and

WHEREAS, As crime victims' rights are carried into 2010 and beyond, society must strive to protect, restore, and expand crime victims' rights and services so that they apply to every victim, every time; and

WHEREAS, Establishing a "Crime Victims' Rights Week," the last full week of April of each year, offers the opportunity to recommit the State of New Jersey to ensuring that every victim is afforded his or her legal rights and treated as a crucial participant in our criminal justice system; and

WHEREAS, "Crime Victims' Rights Week" in this State will serve to celebrate the progress that has been made in crime victims' rights and services and build public awareness about the many challenges that still face victims in the aftermath of crime; now, therefore,

BE IT RESOLVED *by the Senate and General Assembly of the State of New Jersey:*

C.36:2-163 "Crime Victims' Rights Week"; last full week in April; designated.

1. The Legislature hereby designates the last full week in April of each year as "Crime Victims' Rights Week" in New Jersey. In so doing, the Legislature will be drawing attention to victims' rights and ensure that every individual who is victimized by crime is provided compassionate and adequate support to recover from the impact of crime and is given the opportunity to participate fully in the criminal justice system.

C.36:2-164 Annual observance.

2. The Governor is requested to annually issue a proclamation calling upon public officials and the citizens of this State to observe the week with appropriate activities and programs.

3. This joint resolution shall take effect immediately.

Approved November 30, 2010.

JOINT RESOLUTION NO. 6

A JOINT RESOLUTION designating the third week in January of each year as "Teen Cancer Awareness Week."

WHEREAS, Cancer among adolescents is rare, but is still the leading cause of death from disease in teenagers between 15 and 19 years of age; and

WHEREAS, While teens should receive treatment at pediatric hospitals, only one third of adolescent cancer patients are treated at pediatric oncology centers, and when they are, they often feel out of place because they are too old to be mixed in with younger children and because most pediatric oncology programs focus on the clinical and psychosocial needs of younger patients; and

WHEREAS, Alternatively, when teen cancer patients receive treatment in adult cancer facilities, they feel out of place because they are too young to be treated as adults and account for only one percent of the population treated by medical oncologists; and

WHEREAS, Teens with cancer are thus stranded between two medical systems, neither of which adequately addresses their clinical and psychosocial needs; and

WHEREAS, While the five-year survival rates of children with cancer have increased in the last 20 years, survival rates for teenagers and young adults with cancer are dismally low in comparison. The disparity is partly due to the fact that 40 percent of cancer patients 14 and younger are enrolled in clinical trials, compared with an average of only nine percent of cancer patients between the ages of 15 and 24; and

WHEREAS, Teens with cancer have unique concerns about their education, social lives, body image, and infertility, among other things, and their needs too often are not understood or acknowledged; and

WHEREAS, Many adolescent cancer survivors have difficulty re-adjusting to school and social settings, and experience anxiety, and in some cases face increased learning difficulties; and

WHEREAS, There exists an undeniable need to not only understand the biology and clinical needs of teens with cancer, but also increase awareness in the larger community about the unique challenges facing teens with cancer; now, therefore,

BE IT RESOLVED *by the Senate and General Assembly of the State of New Jersey*

C.36:2-165 "Teen Cancer Awareness Week," third week in January; designated.

1. The third week in January of each year is designated as "Teen Cancer Awareness Week" in the State of New Jersey in order to promote awareness about teen cancers and the unique medical and social needs of teens with cancer.

C.36:2-166 Annual observance.

2. The Governor shall annually issue a proclamation calling upon public officials and the citizens of New Jersey to observe the week with appropriate activities and programs, which promote awareness about teens with cancer.

3. This joint resolution shall take effect immediately.

Approved December 8, 2010.

EXECUTIVE ORDERS

EXECUTIVE ORDER NO. 1

WHEREAS, New Jersey's citizens, their government, and all persons doing business in this State have a mutual investment in the promulgation of administrative rules and regulations that are reasonable, comprehensible, consistent, predictable and responsive; and

WHEREAS, Among my priorities as Governor of the State of New Jersey and in furtherance of my constitutional authority to supervise the principal departments and agencies of State Government is the establishment of a new common sense approach to the promulgation and adoption of administrative rules and regulations under the direction of a "Red Tape Review Group" to be created in the Department of State under the direction of the Lieutenant Governor; and

WHEREAS, A preliminary review of rules and regulations has revealed that over 800 pages of proposed administrative rules are currently published in the New Jersey Register, and a review of those rules shows that approximately 154 rule proposals can be frozen without compromising the public health, safety or welfare and without prejudicing the rights of the people of the State of New Jersey; and

WHEREAS, In order to perform its function of reviewing proposed administrative rules over a period of 90 days, the Red Tape Review Group must be afforded a sufficient opportunity to examine proposed administrative rules and regulations prior to their adoption, and thereafter make recommendations on those contemplated rules that are unworkable, overly-proscriptive or ill-advised; and

WHEREAS, This review of proposed administrative rules is especially necessary in order to address the current economic and fiscal situation in New Jersey, and to ensure that the regulatory processes of State Government do not have the effect of preventing this State from attracting new business enterprises, constraining the growth and expansion of those businesses presently operating in this State, and most importantly, hindering the creation of jobs for New Jersey citizens at a time of unprecedented economic distress;

NOW THEREFORE, I, CHRIS CHRISTIE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby, ORDER and DIRECT:

1. All proposed regulations and rules, except as herein provided, are hereby frozen and suspended for a period of 90 days commencing on the effective date of this Executive Order. A list of those proposed regulations and rules that are frozen is included in the attached Appendix A. The suspension of the proposed administrative regulations and rules shall be undertaken in a manner consistent with the rules for agency rulemaking and the procedures of the Office of Administrative Law.

2. With respect to any proposed administrative regulation or rule that may have been transmitted to the Office of Administrative Law, but has not been pub-

lished in the New Jersey Register, the head of the State agency proposing the regulation or rule shall withdraw the proposed regulation or rule in a manner consistent with the Rules for Agency Rulemaking and procedures of the Office of Administrative Law.

3. The provisions of Section 1 and Section 2 of this Executive Order shall not apply to any proposed administrative regulation if the failure to adopt same would:

Adversely impact public safety or security;

Adversely impact the public health;

Prejudice the State of New Jersey with respect to the receipt of monies from the federal government or the ability to obtain any certifications from the federal government;

Prevent the application of powers, functions and duties essential to the operations of the State agency in question; or

e. Adversely impact compliance with any judicial deadline.

4. A list of those proposed regulations and rules that pursuant to this Order are not frozen is included in the attached Appendix B.

5. The head of each State agency shall review the list of proposed administrative regulations and rules that are frozen and suspended pursuant to Section 1 of this Executive Order. No later than 10 days after the effective date of this Executive Order, the head of each State agency shall transmit to the Lieutenant Governor:

Notification of any proposed administrative regulation or rule that should be suspended in addition to the proposed administrative rules set forth in Section 1 of this Executive Order. The Lieutenant Governor may, following such notification, suspend the proposed administrative regulation and rule; and

Notification of any proposed administrative regulation or rule, the suspension or withdrawal of which would result in any of the conditions enumerated in Section 3 of this Executive Order. The Lieutenant Governor may, upon a finding that any of the conditions in Section 3 of this Executive Order have been met, rescind the suspension or withdrawal of the proposed administrative regulation or rule.

6. The expiration date of any administrative regulation or rule of any State agency that would otherwise expire between this date and April 18, 2010, is hereby extended until the completion of the review of administrative regulations and rules by the Red Tape Review Group, and until such time as the extended regulation or rule is readopted pursuant to the provisions of the "Administrative Procedure Act," P.L. 1968, c. 410 (C. 52:14B-1 et seq.).

7. This Order is not intended to, and does not confer any legal rights upon businesses or others whose activities are regulated by New Jersey's agencies, boards, commissions, or departments and shall not be used as a basis for legal challenges to regulations, rules, approvals, permits, licenses or other actions or to any inaction of the governmental entity subject to it.

8. This Order shall take effect immediately.

Dated January 20, 2010.

EXECUTIVE ORDER NO. 2

WHEREAS, New Jersey enjoys enormously valuable assets that have historically been the source of growth, income and opportunity for the State's residents and businesses; and

WHEREAS, New Jersey's enviable location and access via roads, rail, air and ports, educational resources, talent base and legacy of business leadership and invention have been and continue to be the essential ingredients of prosperity; and

WHEREAS, New Jersey's ability to leverage these assets to produce growth and opportunity is being challenged by chronically high costs and regulatory burdens that have resulted in New Jersey's consistently low rankings nationally on regulatory burdens, costs-of-doing business and similar such economic measures making New Jersey the worst business climate in the nation; and

WHEREAS, Although regulations for conducting business in New Jersey exist to promote the health, safety, and economic vitality of our citizens, these goals can only be achieved when the process by which those regulations are promulgated is transparent and accessible to persons outside of government, and when those regulations are crafted in such a manner so that they are understandable, consistent and predictable; and

WHEREAS, New Jersey is committed to fostering the health, safety and economic welfare of its citizens by creating an environment that is an attractive venue for entities doing, or seeking to do, business in the State, by immediately setting course to evaluate the policies, practices, organizational structures and resources that advance or impair the State's competitiveness, including immediate, intermediate and long-term actions that will ensure that its regulations create an atmosphere in which businesses and individuals affected by those regulations are treated as partners in identifying and achieving regulatory goals; and

WHEREAS, I am now establishing "Common Sense Principles" for State rules and regulations that will give this State the opportunity to energize and encourage a competitive economy to benefit businesses and ordinary citizens;

NOW, THEREFORE, I, CHRIS CHRISTIE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes in this State, do hereby, ORDER AND DIRECT all agencies, boards, commissions, departments and authorities over which the Governor has the power to veto minutes (collectively "State agencies") to implement and adhere to the following Common Sense Principles:

1. For immediate relief from regulatory burdens, State agencies shall:

a. Engage in the "advance notice of rules" by soliciting the advice and views of knowledgeable persons from outside of New Jersey State government, including the private sector and academia, in advance of any rulemaking to provide valuable insights on the proposed rules, and to prevent unworkable, overly-proscriptive or ill-advised rules from being adopted.

b. Adopt the "time of decision" rule defined as the requirement that any permit or approval shall be governed by the administrative rules, regulations and standards in effect at the time an application is filed, so that all decisions relating to that project are subject to the regulations in effect at the time of application, except where otherwise specifically provided in State or federal law.

c. Adopt rules for "waivers" which recognize that rules can be conflicting or unduly burdensome and shall adopt regulations that allow for waivers from the strict compliance with agency regulations and such waivers shall not be inconsistent with the core missions of the agency. Each State agency shall prepare and publish on its website a policy describing the circumstances in which such waivers will be granted.

d. Employ the use of cost/benefit analyses, as well as scientific and economic research from other jurisdictions, including but not limited to the federal government when conducting an economic impact analysis on a proposed rule.

e. Detail and justify every instance where a proposed rule exceeds the requirements of federal law or regulation. State agencies shall, when promulgating proposed rules, not exceed the requirements of federal law except when required by State statute or in such circumstances where exceeding the requirements of federal law or regulation is necessary in order to achieve a New Jersey specific public policy goal.

f. Take action to cultivate an approach to regulations that values performance-based outcomes and compliance, over the punitive imposition of penalties for technical violations that do not result in negative impacts to the public health, safety or environment.

2. For intermediate relief from regulatory burdens, State agencies shall:

a. In the first 90 days of this administration and in coordination with the Red Tape Review Group's efforts, identify those regulations and processes that impede responsible economic development as a result of: i) providing insufficient or contradictory guidance (inter and intra-agency) to applicants for permits, thus leading to delay or denial of the permit applications; or ii) exceed legislative intent or federal standards without well-documented cause, thus placing the state at a competitive disadvantage in attracting investment and jobs.

b. Within 180 days, redraft rules and processes identified in the subsection a. of this section to ensure that each rule and process is needed to implement the underlying statute and amend or rescind rules or processes that are unnecessary, ineffective, contradictory, redundant, inefficient, needlessly burdensome, that unnecessarily impede economic growth, or that have had unintended negative consequences.

c. Within 180 days, reduce or eliminate areas of regulation where federal regulation now adequately regulates the subject matter.

d. In this intermediate period, select for earlier review those rules or processes that, in the agency's judgment, appear to be least consistent with developing and administering this Order.

3. For long-term relief from regulatory burdens, State agencies shall:

a. Draft all proposed rules and processes so that they promote transparency and predictability regarding regulatory activity, consistency of business regulation within the State, appropriate flexibility, and a reasonable balance between the underlying regulatory objectives and the burdens imposed by the regulatory activity.

b. Adopt federally promulgated rules as written, unless separate State rules are permitted and appropriate to achieve a New Jersey specific public policy goal.

c. Focus all proposed rules on achieving outcomes rather than on the process used to achieve compliance and be based on the best scientific and technical information that can be reasonably obtained and designed so that they can be applied consistently.

d. Draft all proposed rules so they impose the least burden and costs to business, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective.

e. When possible and appropriate, provide stakeholders with compliance education and the ability to make compliance inquiries without risk of enforcement. In cases of regulatory noncompliance, an agency's enforcement response should be proportional to the circumstances and should take into consideration whether the agency contributed to the noncompliance. Before undertaking enforcement activity, and absent exceptional circumstances, the agency shall discuss the regulatory violation with the noncompliant individual or business in order to explore the possibility of resolving the matter without enforcement proceedings.

f. Waive penalties, when appropriate, for first-time or isolated paperwork or procedural regulatory noncompliance.

g. Engage in continuous regulatory process improvement including, but not limited to, eliciting customer feedback regarding their administration of regulatory responsibilities. Further, agencies shall periodically evaluate their regulatory performance using measurable standards, data, or other objective criteria.

4. In order to promote a common sense approach to the administration of regulations that impact business in New Jersey, State agencies shall ensure that regulations shall be efficient, consistent across State agencies, accessible and transparent to all interested parties. Accordingly, I also hereby order the following:

a. Agencies should treat those affected by their rules and regulatory processes as customers and treat them consistently across regions, offices, and departments.

b. Agencies should coordinate with each other to combine and minimize regulatory filings and to minimize worksite interruptions necessary to regulatory activity.

c. Agencies should strive to reduce the processing time for regulatory approvals, permits, licenses, and other actions requiring agency response. Additionally, agencies should work cooperatively with applicants to expedite processing, when possible, and keep in mind business deadlines and other commercial demands.

d. Agencies should require submission of the minimum amount of information necessary to administer their rules. Agencies should avoid requiring submission of intellectual property or other confidential business information and should protect it if it needs to be submitted.

e. Agencies shall, to the maximum extent feasible, leverage information systems and other technologies to improve efficiency and processes.

5. Although this Order is directed to and binding upon all personnel in the cabinet agencies and boards and commissions, the director, administrator, or other head of each such entity shall be accountable for implementing this Executive Order to the extent applicable and practicable within that entity.

6. This Order is not intended to, and does not confer any legal rights upon businesses or others whose activities are regulated by New Jersey's agencies, boards, commissions, or departments and shall not be used as a basis for legal challenges to rules, approvals, permits, licenses or other actions or to any inaction of the governmental entity subject to it.

7. This Order shall take effect immediately.

Dated January 20, 2010.

EXECUTIVE ORDER NO. 3

WHEREAS, It is imperative that the hundreds of proposed and pending State rules and regulations, as well as the hundreds of operative Executive Orders by previous Governors, should be thoroughly reviewed, in a thoughtful, balanced and expeditious way in order to assess their potential or actual effects on New Jersey's economy, to determine whether their costs and other burdens on businesses, workers and local governments outweigh their intended benefits, and to provide a basis for recommendations to the Governor to withdraw or amend any proposed rules and regulations that unduly burden New Jersey's businesses, workers, and local governments; and

WHEREAS, This review should be conducted by a bipartisan group of persons, including representatives from both the Executive and Legislative Branches of State Government, who are devoted to the common goal of promptly addressing New Jersey's urgent economic crisis; and

WHEREAS, This review should be conducted with transparency, including an opportunity for members of the public to obtain information about the group's ongoing work and to communicate pertinent information and opinions in an appropriate and effective manner;

NOW, THEREFORE, I, CHRIS CHRISTIE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State do hereby ORDER, and DIRECT:

1. There is hereby created a Red Tape Review Group (or "Group"), which shall undertake a review of certain rules, regulations and processes that are a burden on New Jersey's economy. In addition, the Group shall comprehensively review all pending and proposed rules and regulations, as well as all operative Ex-

ecutive Orders from previous administrations, in order to assess their effects on New Jersey's economy and to determine whether their burdens on business and workers outweigh their intended benefits.

2. The Group shall provide a written report to the Governor, making detailed recommendations to rescind, repeal or amend any provisions that unduly burden business and workers within 90 days of the date of this Order.

3. The Red Tape Review Group shall be chaired by the Lieutenant Governor.

4. The Group shall consist of the Lieutenant Governor, the Chief Counsel to the Governor, or his designee, the Commissioner of the Department of Environmental Protection, or his designee, the Commissioner of the Department of Community Affairs, or his/her designee, the President of the Senate and the Speaker of the General Assembly, or their respective designees, the Senate Minority Leader and the General Assembly Minority Leader, or their respective designees. The Lieutenant Governor may, at her discretion, appoint additional persons to provide the Group with necessary and appropriate expertise and stakeholder representation.

5. The Chair shall have the discretion to make internal rules of procedure regarding the Group's governance and operations, including the number of Members sufficient to vote for its recommendations and the form of its reports.

6. All departments and agencies, and all authorities that are required to submit their minutes, resolutions or actions for gubernatorial approval or veto shall cooperate fully with the Group in the implementation of this Order, and shall promptly furnish the members of the panel with any and all information that they may from time to time request.

7. The Group is authorized to call upon any department, office, division or agency of this State to supply it with data and other information, personnel or assistance it deems necessary to discharge its duties under this Order. Each department, officer, division or agency of the State is hereby required, to the extent not inconsistent with law, to cooperate with the panel and to furnish it with such information, personnel and assistance as is necessary to accomplish the purpose of this Order.

8. The Group shall take care to solicit both written and oral comments from the public, including businesses, workers, professional, labor and community organizations, environmental and other affected persons or entities as the Group deems appropriate, and to consider the views expressed by those parties in any report.

9. This Order is not intended to, and does not, confer any legal rights upon any persons or entities regulated by any agency of the New Jersey State Government, and it shall not be used as a basis for legal challenges to statutes, regulations, or other actions or to any inaction of any governmental entity subject to it.

10. This Order shall take effect immediately.

Dated January 20, 2010.

EXECUTIVE ORDER NO. 4

WHEREAS, The New Jersey State Government has for many years imposed an ever-increasing number of legal requirements on local governments, without regard to the costs such requirements impose on already-strained local budgets, and without providing additional funding to enable local governments to comply; and

WHEREAS, The New Jersey State Government has imposed such unfunded mandates in order to improperly transfer responsibility for providing certain services to local governments, in an effort to meet the State's balanced budget requirement; and

WHEREAS, New Jersey's local governments derive much of their funding from property taxation; and

WHEREAS, New Jersey's property taxes have increased disproportionately, and are now the highest in the Nation; and

WHEREAS, The current recession and ongoing economic crisis have had a negative impact on real estate values in New Jersey, yet most property taxes continue to be assessed based on a previously-inflated real estate market, thus compounding the tax burden borne by New Jersey residents; and

WHEREAS, Such unfunded mandates are generally prohibited by the New Jersey State Constitution and statute (N.J. Const. Art. VIII, § II, ¶ 5 and N.J. Stat. 52:13H-1 et seq.); and

WHEREAS, The Council on Local Mandates lacks the legal authority to review and take action on regulations that have not yet taken effect; and

WHEREAS, The Governor has the duty under the New Jersey Constitution to take care that the laws concerning unfunded mandates be faithfully executed;

WHEREAS, Responsible government dictates that the budgetary impact of any proposed regulation or rule be reviewed and evaluated in advance of adoption to determine the potential costs to, and administrative burdens on, local governments, including any anticipated effects on the level of local taxation;

NOW, THEREFORE, I, CHRIS CHRISTIE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes in this State, do hereby, ORDER AND DIRECT all agencies, boards, commissions, departments and authorities over which the Governor has the power to veto minutes (collectively "State agencies") to implement and adhere to the following Common Sense Principles:

1. No State agency shall recommend, propose, publish or submit any regulation containing an unfunded mandate, as defined under New Jersey law (N.J. Stat. 52:13H-2), unless expressly authorized in writing by the Governor or the Lieutenant Governor.

2. Before recommending, proposing, publishing or submitting a regulation containing any mandate on local government, a State agency shall prepare a de-

tailed written report analyzing and evaluating the fiscal impact of such mandate on local government, quantifying the mandate's estimated cost to local government, comparing the costs to the benefits, and identifying sources of revenue to offset any such costs. The State agency shall also solicit information regarding the proposed mandate from potentially affected local governments, businesses, residents, and public stakeholders. The report shall summarize the information and opinions received, and indicate whether the agency revised the proposed mandate in response.

3. The report shall be submitted to the Lieutenant Governor and shall be made publicly available. Within thirty (30) days of receiving the report, the Lieutenant Governor, or her designee, shall communicate in writing to the State agency whether the proposed regulation would constitute an unfunded mandate under New Jersey law, and, if so, make recommendations for changes that would bring the proposal into compliance with the law. If the Lieutenant Governor deems the report insufficient to render a decision, she may request, and the State agency shall timely provide, additional information or analysis. The Lieutenant Governor may also request additional information or analysis from local government or from other interested persons.

4. If the proposed regulation is necessary to respond to emergent circumstances that threaten the public health, safety or welfare, the responsible agency head may suspend the reporting requirement, by written notice to the Lieutenant Governor. However, as soon as practicable after the emergency has been addressed, the Lieutenant Governor shall reinstate the reporting requirement by giving written notice to the responsible agency head, providing a specific deadline for the agency to comply.

5. This Order is not intended to, and does not, confer any legal rights upon local government or other persons or entities regulated by any agency of the New Jersey State Government, and it shall not be used as a basis for legal challenges to statutes, regulations, or other actions or to any inaction of any governmental entity subject to it.

6. This Order shall take effect immediately.

Dated January 20, 2010.

EXECUTIVE ORDER NO. 5

WHEREAS, The fiscal well being of the State of New Jersey and the growth of economic opportunities for New Jersey citizens and New Jersey businesses are major priorities of this Administration; and

WHEREAS, It is in the best interest of the State of New Jersey that the Governor receive high-quality advice on an ongoing basis regarding State, regional, local and national economic conditions; and

WHEREAS, The establishment of a Governor's Council of Economic Advisors will provide an effective and efficient mechanism for the Governor to obtain advice on a broad range of economic matters;

NOW, THEREFORE, I, CHRIS CHRISTIE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State do hereby ORDER, and DIRECT:

1. There is hereby established a Governor's Council of Economic Advisors (or "Council") which shall report directly to the Governor.
2. Each member of the Council shall be appointed by and shall serve at the pleasure of the Governor.
3. The Council shall consist of a Chairperson, designated as such by the Governor, and four other members appointed by the Governor. Neither the Chair nor any member shall have a fixed term. The Chair shall establish such rules of operation as the Council may require.
4. The Council shall analyze and advise the Governor on issues related to the fiscal condition of the State of New Jersey.
5. The Council shall meet as requested by the Governor or by the Chairperson, but not less frequently than quarterly. All Department and Agency heads are directed to cooperate fully with the Council, including providing such information as the Council may determine will assist it in its duties.
6. This Order shall take effect immediately.

Dated January 20, 2010.

EXECUTIVE ORDER NO. 6

WHEREAS, The Rules and Regulations governing the State of New Jersey require that certain individuals be designated by each State Department and Agency, as essential attendance employees in the event of a curtailment of State operations; and

WHEREAS, During prior curtailments of State operations, official monitors employed by the New Jersey Casino Control Commission were designated as non-essential employees, resulting in the closing of all New Jersey casinos and a loss of tax revenues to the State of New Jersey in excess of $1 million per day during the period of curtailment; and

WHEREAS, This circumstance is not in the best interest of the citizens of the State of New Jersey;

NOW, THEREFORE, I, CHRIS CHRISTIE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State do hereby, ORDER, and DIRECT:

1. Those monitors and other employees of the New Jersey Casino Control Commission whose attendance is required for New Jersey casinos to be permitted to operate are essential attendance employees within the meaning of Title 4A of the New Jersey Administrative Code and other applicable laws and regulations.

2. Within 15 days of this Order, the Casino Control Commission shall designate and identify those monitors employed by the Casino Control Commission and any other employee of the Casino Control Commission whose attendance is required in order for casinos to be permitted to operate in the State of New Jersey as essential attendance employees and shall comply with the requirements of New Jersey Statutes and Code with respect to such designation. This Order shall take effect immediately

3. This Order shall take effect immediately.

Dated January 20, 2010.

EXECUTIVE ORDER NO. 7

WHEREAS, It is the clear and express intent of this Administration that all individuals who are elected to or otherwise hold public office shall adhere to the highest ethical standards; and

WHEREAS, Prior actions of the New Jersey Legislature and existing Executive Orders have imposed stringent requirements on those individuals who hold public positions; and

WHEREAS, Since 2004, there have been a series of legislative and executive actions which have imposed restrictions on the campaign contributions of those who contract with the State of New Jersey and other public entities, so as to avoid actual conflicts of interest or even the appearance of conflicts of interest in the public contracting process; and

WHEREAS, Even though these "pay-to-play" restrictions have had a positive impact on the public contracting process, they have not extended their reach to all "business entities" which contract with the State of New Jersey and other public entities; and

WHEREAS, Even though contributions in excess of the amount identified in legislation, Executive Orders, and regulations are restricted to many forms of political and campaign committees, these restrictions have not extended their reach to all such committees;

NOW, THEREFORE, I, CHRIS CHRISTIE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State do hereby ORDER, and DIRECT:

1. Prior Executive Orders implementing "pay-to-play" restrictions are hereby modified to include within the definition of the term "Business Entity" any Labor Union or Labor Organization which enters into contracts with the State of

New Jersey and its instrumentalities or with other New Jersey public entities. The reference in this Executive Order to "labor unions" and "labor organizations" shall include any political committee formed by any such labor union or labor organization, one of the purposes of which political committee is to make political contributions. All Department and Agency heads are directed to revise current regulations to be consistent with this change.

2. Prior Executive Orders implementing "pay-to-play" restrictions are hereby modified to include Legislative Leadership Committees within the list of committees and depositories as to which the contribution restrictions are applicable. All Department and Agency heads are directed to revise current regulations to be consistent with this change.

3. This Order shall take effect immediately.

Dated January 20, 2010.

EXECUTIVE ORDER NO. 8

WHEREAS, New Jersey faces major fiscal challenges, including perilously low cash balances, declining revenue assumptions, the largest projected budget deficit per capita of any state, and one of the heaviest long term debt burdens in the country, with cumulative debt exceeding $100 billion for bonded debt and unfunded pension and other post-employment benefits; and

WHEREAS, New Jersey has for too long engaged in a practice of disjointed financial reporting and inadequate fiscal transparency that has contributed to the failure to recognize the scope and severity of New Jersey's financial condition; and

WHEREAS, New Jersey has for too long reported public revenues in a fashion that makes it difficult for taxpayers, investors and policymakers to assess whether budgets are in balance and cash flow is sufficient to meet State government obligations; and

WHEREAS, Improved financial reporting, stronger cash management practices and multi-year forecasting of revenues and expenditures have been identified by bond rating agencies as among the factors by which states' financial conditions are evaluated; and

WHEREAS, Historically there has been no single source from which citizens can identify and evaluate revenues and expenditures of funds derived from State taxes, fees, and other revenues and debts of the State of New Jersey; compare the spending practices, tax policies and tax rates of similarly situated states, school districts and municipalities, and access public documents in electronic format; and

WHEREAS, Transparency in the government of the State of New Jersey, including fiscal transparency, is an important priority of this Administration;

NOW, THEREFORE, I, CHRIS CHRISTIE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State do hereby, ORDER, and DIRECT:

1. The Department of the Treasury shall publish quarterly reports on all State expenditures. Such reports shall specify the State's spending patterns, rates, and timing within the Fiscal Year, and also shall disclose actual or anticipated short-term borrowing necessitated by the timing of expenditures within the Fiscal Year, explaining the specific reasons therefore and detailing associated interest and borrowing costs.

2. The Department of the Treasury shall publish a monthly revenue report. Such report shall identify and explain, with respect to each revenue source, any significant variance between the actual amount received by the Treasury and the amount forecast in the State Budget. Such reports shall be published not later that the 10th business day of the next succeeding month, with the exception of June revenues, which may be reported later in July.

3. The annual State Budget presentation, the monthly revenue reports, and the quarterly spending reports shall include both "on budget" and "off budget" revenues and expenditures for all State agencies. Such presentation and reports shall also disclose and account for the spending of taxes, fees, tolls, and debt by independent State authorities in the same manner as "on budget" grants in aid such as municipal and school aid.

4. The Department of the Treasury is hereby directed to establish a statewide performance budgeting program for implementation during Fiscal 2011. Such program shall include, but not be limited to, a provision specifying that no existing program will be expanded or new program created unless it "sunsets" after its first four years and includes outcome-based performance objectives by which it can be measured.

5. The Department of the Treasury shall establish a new website which shall provide a central location for commonly-sought documents related to State finances. Four principles shall guide this website: (1) the information shall be easy to locate; (2) the data shall be user-friendly; (3) the data shall make meaningful comparisons, such as comparing the spending practices, tax policies and tax rates of similarly situated states, school districts and municipalities, and should include longitudinal comparisons; and (4) public documents shall be available electronically, thereby avoiding the cumbersome and costly Open Public Records Act process. In addition, the Website shall include: (1) all reports required to be published under this Executive Order; (2) disclosure of compensation paid to public employees of the State and independent State agencies, including the current contracts under which compensation is determined; (3) information related to debt, including amounts of bond debt or interest paid and sources of funds for bond issues; and (4) State liabilities for pension and post-retirement medical benefits.

6. There shall be established within the Department of the Treasury a citizen's commission to advise the Governor and the Treasurer on ways to improve and

expand public access to government documents and to create data that will enhance the public's understanding of government spending and program performance.

7. This is not intended to, and does not confer any legal rights upon businesses or others whose activities are regulated by New Jersey's agencies, boards, commissions, or departments and shall not be used as a basis for legal challenges to regulations, rules, approvals, permits, licenses or other actions or to any inaction of the governmental entity subject to it.

8. This Order shall take effect immediately.

Dated January 20, 2010.

EXECUTIVE ORDER NO. 9

WHEREAS, United States Marine Sergeant Christopher R. Hrbek, was a true son of New Jersey, raised and educated in Westwood, New Jersey, where he served his community as a volunteer firefighter; and

WHEREAS, After graduating from Westwood High School, Sergeant Hrbek enlisted in the Marines and was assigned to the 3rd Battalion, 10th Marine Regiment, 2nd Marine Division, 2nd Marine Expeditionary Force based at Camp Lejeune, North Carolina; and

WHEREAS, Sergeant Hrbek was a soldier of unusual dedication, whose service for this country brought him to Iraq three times, as well as to Greece, Jordan, and Afghanistan; and

WHEREAS, Sergeant Hrbek was an ambitious and courageous young man who loved his country and the military and who was slated to receive the Bronze Star for his actions in saving the life of a wounded fellow soldier; and

WHEREAS, Sergeant Hrbek tragically lost his life while heroically and selflessly serving his country in southern Afghanistan; and

WHEREAS, Sgt. Hrbek was a dedicated soldier as well as a loving husband, son, and brother, whose memory lives in the hearts of his family and fellow soldiers; and

WHEREAS, Sergeant Hrbek's patriotism and dedicated service to his country and his fellow soldiers make it appropriate and fitting for the State of New Jersey to remember him and his family, to mark his passing, and to honor his memory;

NOW, THEREFORE, I, CHRIS CHRISTIE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of New Jersey shall be flown at half-staff at all State departments, offices, agencies, and instrumentalities during appropriate hours on Monday, January 25, 2010, in recognition and mourning of a brave and loyal American hero, United States Marine Sergeant Christopher R. Hrbek.

2. This Order shall take effect immediately.

Dated January 21, 2010.

EXECUTIVE ORDER NO. 10

WHEREAS, United States Marine Lance Corporal Jeremy Kane graduated from Cherry Hill High School-East in 2006 and was pursuing a degree at Rutgers University in Camden, New Jersey; and

WHEREAS, Lance Corporal Kane enlisted in the Marines in September 2006 and was assigned to the 4th Light Armored Reconnaissance Battalion, 4th Marine Division, Marine Forces Reserve, based out of Camp Pendleton, California; and

WHEREAS, Lance Corporal Kane served his community as an outstanding role model and representative for military and veteran students at Rutgers University; and

WHEREAS,Lance Corporal Kane was an ambitious and courageous young man who loved his country and the military; and

WHEREAS, Lance Corporal Kane tragically lost his life while heroically and selflessly serving his country in the Helmand Province of Afghanistan; and

WHEREAS, Lance Corporal Kane was a dedicated soldier as well as a loving son and brother, whose memory lives in the hearts of his family and fellow soldiers; and

WHEREAS, Lance Corporal Kane's patriotism and dedicated service to his country and his fellow soldiers make it appropriate and fitting for the State of New Jersey to remember him and his family, to mark his passing, and to honor his memory;

NOW, THEREFORE, I, CHRIS CHRISTIE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of New Jersey shall be flown at half-staff at all State departments, offices, agencies, and instrumentalities during appropriate hours on Friday, January 29, 2010, in recognition and mourning of a brave and loyal American hero, United States Marine Lance Corporal Jeremy Kane.

2. This Order shall take effect immediately.

Dated January 27, 2010.

EXECUTIVE ORDER NO. 11

WHEREAS, on March 3, 2009, Governor Jon S. Corzine signed Executive Order No. 133 creating the Governor's Commission on the Horse Racing Industry ("Governor's Commission"); and

WHEREAS, The mission of the Governor's Commission is to identify, assess, and recommend possible funding solutions for horse racing meets after 2010 and to propose long-term funding solutions that will promote the future and sustained viability of the horse racing industry in New Jersey in a written report to the Governor and Legislature by no later than July 1, 2010; and

WHEREAS, The State of New Jersey is home to a broad entertainment industry comprised of professional sports, entertainment, horse racing, hotel-casinos, and casino-industry venues, which provide New Jersey residents, as well as visitors to the State, with a vast array of convenient and appealing entertainment options; and

WHEREAS, A healthy and viable entertainment industry is crucial to the State's economy and provides funding for many essential programs that enhance the way of life of its citizens; and

WHEREAS, New Jersey's gaming, professional sports, and entertainment industries are confronting unprecedented financial and structural challenges that require immediate and decisive action to restore financial accountability for the benefit of New Jersey's taxpayers; and

WHEREAS, The issues currently under consideration by the Governor's Commission are a component of the full panoply of issues affecting the State's professional sports, entertainment, and gaming industries; and

WHEREAS, As Governor, I have the responsibility and the authority to ensure that State government and its various agencies and instrumentalities operate as efficiently and as effectively as possible;

NOW, THEREFORE, I, CHRIS CHRISTIE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. There is hereby created a New Jersey Gaming, Sports, and Entertainment Advisory Commission, hereinafter referred to as the Advisory Commission.

2. The Advisory Commission shall consist of seven (7) members appointed by the Governor who shall serve at his pleasure. The Governor shall select a chairperson from among the members of the Advisory Commission. All members of the Advisory Commission shall serve without compensation. The Advisory Commission shall organize as soon as practicable after the appointment of its members.

3. The Advisory Commission is charged with developing recommendations for the Governor for a comprehensive, statewide approach regarding the issues and financial needs of New Jersey's gaming, professional sports, and entertainment industries and making proposals for the implementation of its recommendations. In developing its recommendations, the Advisory Commission shall carefully consider the State's long-term economic interests and this Administration's commitment to ensuring that the State's resources are managed responsibly for the benefit of the citizens of New Jersey. The Advisory Commission shall focus on a number

of critical issues, including: (a) addressing the ongoing financial viability of the New Jersey Sports and Exposition Authority; (b) advancing or resolving the stalled Xanadu project; (c) improving the competitiveness of the gaming industry in Atlantic City and promoting that City as a successful destination resort; (d) ensuring that horse racing becomes self-sustaining; (e) making sure that events at entertainment venues in New Jersey are appropriately scheduled, including the Izod Center and the Prudential Center, so as to ensure their financial success; and (f) such other matters as may be referred to the Advisory Commission by the Governor.

4. The Department of the Treasury shall provide staff support to the Advisory Commission. The Advisory Commission shall be authorized to call upon any department, office, division, or agency of this State to supply it with any information, personnel, or other assistance available as the Advisory Commission deems necessary to discharge its duties under this Order. Each department, office, division, and agency of this State is hereby required, to the extent not inconsistent with law, to cooperate fully with the Advisory Commission within the limits of its statutory authority and to furnish the Advisory Commission with such assistance on as timely a basis as is necessary to accomplish the purposes of this Order. The Advisory Commission may consult with experts or other knowledgeable individuals in the public or private sector on any aspect of its mission.

5. In formulating its recommendations pursuant to this Order, the Advisory Commission shall elicit public input from individuals, organizations, community groups, and other interested parties.

6. The Advisory Commission may report to the Governor from time to time and shall issue a final report to the Governor setting forth the Advisory Commission's recommendations pursuant to this Order no later than June 30, 2010. The Advisory Commission shall expire upon the issuance of its final report.

7. The final report of the Advisory Commission shall be provided to the Legislature and shall be made available to the public.

8. Paragraph 4 of Executive Order No. 133 (2009) is hereby amended as follows: the Governor's Commission shall conclude its study of the horse racing industry and provide its report and recommendations to the Advisory Commission no later than April 1, 2010, at which point the Governor's Commission shall expire. The Advisory Commission shall consider the final report and recommendations of the Governor's Commission in connection with the formulation of its final report and recommendations to the Governor.

9. This Order shall take effect immediately.

Dated February 3, 2010.

EXECUTIVE ORDER NO. 12

WHEREAS, In Southern Burlington County N.A.A.C.P. v. Township of Mt. Laurel, 67 N.J. 151 (1975) ("Mt. Laurel I") and Southern Burlington County N.A.A.C.P.

v. Township of Mt. Laurel, 92 N.J. 158 (1983) ("Mt. Laurel II"), the Supreme Court of New Jersey identified a constitutional obligation on the part of municipalities to provide, by their land use regulations, for an appropriate choice of housing for all categories of people who may desire to live there, including an obligation to provide affordable housing to those of low and moderate income; and

WHEREAS, In the decades since the Supreme Court of New Jersey's decisions in Mt. Laurel I and Mt. Laurel II, there have been extensive legislative and regulatory efforts undertaken to ensure compliance with the Supreme Court's decisions and constant litigation concerning the scope and implementation of the Supreme Court's decisions and the legislative and regulatory efforts undertaken to comply with those decisions; and

WHEREAS, Among the legislative efforts undertaken in response to the Mt. Laurel decisions was the enactment of the State Planning Act to create a State Planning Commission to adopt a State Development and Redevelopment Plan ("State Plan") for, inter alia, growth, open space, agriculture and conservation, and to project the growth in employment, population, housing and land needs for development and redevelopment in New Jersey; and

WHEREAS, In addition to the State Planning Act, the Legislature also enacted the Fair Housing Act ("FHA") to implement the constitutional obligation to provide affordable housing by creating the Council on Affordable Housing ("COAH"), and COAH has developed procedures and regulations in an effort to provide affordable housing in a manner that is consistent with the constitutional obligations identified in the Mt. Laurel decisions and the State Plan; and

WHEREAS, The burdensome procedures governing the provision of affordable housing in New Jersey for those with low and moderate income developed by COAH are excessively complex and unworkable, resulting in delays, inefficiencies, litigation and unreasonable costs to municipalities and the private sector without appreciable progress being made for our citizens; and

WHEREAS, At present, COAH's long-delayed "Third Round" regulations that were originally due in 1999, adopted in 2004, delayed by litigation, and adopted in final form in 2008, are again being challenged before the Court; and

WHEREAS, The New Jersey State Constitution requires the Governor to take care that the laws of this State be faithfully executed, N.J.Const. (1947) Article V, Section 1, Paragraph 11; and

WHEREAS, As Governor, I am committed to ensuring compliance with constitutional requirements in a manner that is as efficient and effective as possible; and

WHEREAS, New thinking on statewide planning is necessary due to the failure of COAH to ensure that all constitutional obligations with respect to the provision of affordable housing are satisfied in a manner that is both fair and reasonable to the already burdened municipalities of our State; and

WHEREAS, The statutory and regulatory mechanisms currently in place have proven to be an unduly burdensome and wholly ineffective means of meeting these goals; and

WHEREAS, The Legislature is presently considering amendments to the FHA and related statutes, which amendments include the abolition of COAH, the elimination of "growth share" as a methodology to determine prospective need and the elimination of a municipality's prior housing obligations;

NOW, THEREFORE, I, CHRIS CHRISTIE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. There is hereby established a Housing Opportunity Task Force that shall undertake a review of the FHA, State Planning Act and the current and former COAH regulations and methodologies (the "Task Force"). The Task Force shall assess the effect of these laws, the degree of success in accomplishing the goals of meeting the constitutional obligations under the Mt. Laurel decisions consistent with sound planning and economic growth, and the continued existence of COAH.

2. The Task Force shall consist of 5 members appointed by the Governor who shall serve at his pleasure. The Governor shall select a chairperson from among the members of the Task Force. All members of the Task Force shall serve without compensation. The membership shall include individuals who have knowledge or expertise in the areas of affordable housing, economic development, land use planning, environmental protection and related issues.

3. The Task Force is charged with providing recommendations to the Governor and specifically shall consider the following, among other issues: (1) the best means for determining whether a municipality should have any further affordable housing obligation; (2) the regions that have been used by COAH for more than 20 years and whether they are still appropriate; (3) the means of incorporating workforce housing into the concept of affordable housing; (4) the diverse and significantly divergent State projections for housing and employment growth to determine the obligation for a variety and choice of housing, taking into consideration the need for open space preservation and environmental protection as elements of sound land use planning; (5) mechanisms that should be used to support the rehabilitation of deteriorating housing in the urban centers; (6) the means of developing economies, efficiencies, and savings in the development process; (7) ways to encourage rehabilitation as well as new development in meeting the need for affordable housing; (8) the appropriateness of methodologies that continue to include prior round need or include retroactive growth as part of a growth share approach; and (9) any other issue referred to the Task Force by the Governor.

4. The Task Force shall issue a report to the Governor and the Commissioner of the Department of Community Affairs with its recommendations within 90 days of the date of this Order. The Task Force shall expire upon the issuance of its final report. The final report of the Task Force shall be provided to the Legislature and shall be made available to the public.

5. For the next 90 days, COAH shall refrain from taking any further action to process applications for substantive certification or to take any other actions to im-

plement the Third Round regulations. The provisions of this Paragraph shall not apply to any action if the applicant, for good cause shown, requests action on a particular item and the Acting Commissioner determines that such action is required within the 90 day period to prevent the loss of affordable housing opportunities.

6. All State officials and agencies shall cooperate fully with the Task Force in the implementation of this Order, and shall promptly furnish the members of the Task Force with any and all information and assistance that they may from time to time request

7. This Order shall take effect immediately and shall remain in full force and effect until rescinded, modified, or supplemented by me.

Dated February 9, 2010.

EXECUTIVE ORDER NO. 13

WHEREAS, Beginning on February 5, 2010, the State of New Jersey was impacted by a severe winter storm that brought record snowfalls, high winds, freezing temperatures, and blizzard-like conditions to many counties in the State; and

WHEREAS, The February 5, 2010 severe winter storm has caused widespread power outages to tens of thousands of homes, nursing homes, and businesses, requiring State and local governments to open shelters and assist in evacuations, as well as leaving roadways impassible and clogged with snow, and causing schools to close for days; and

WHEREAS, The aforementioned conditions have existed since February 5, 2010 and continue to exist in several counties, including the Counties of Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, and Salem; and

WHEREAS, The National Weather Service has issued a Winter Storm Warning for the entire State predicting rain, sleet, snow, and high winds beginning on Tuesday, February 9, 2010 and continuing; and

WHEREAS, This new severe winter storm is expected to produce another ten to eighteen inches of snow in addition to the snow already on the ground as a product of the February 5, 2010 storm, hampering efforts to restore power, remove snow, and return the State to normal operations; and

WHEREAS, The impending severe winter storm will exacerbate existing conditions, including power outages and sheltering operations, and will create additional problems for the State and local governments; and

WHEREAS, The aforesaid conditions constitute an imminent hazard that threatens and presently endangers the health, safety, and resources of the residents of one or more municipalities or counties of this State, and which is in some parts of the State and may become in other parts of the State too large in scope to be handled by the normal local operating services; and

WHEREAS, The Constitution and Statutes of the State of New Jersey, particularly the provisions of N.J.S.A. App.A:9-33 et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A.

38A:2-4 and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers;

NOW, THEREFORE, I, CHRIS CHRISTIE, Governor of the State of New Jersey, in order to protect the health, safety, and welfare of the people of the State of New Jersey do hereby DECLARE and PROCLAIM that a State of Emergency has existed in the aforesaid counties since February 5, 2010, and continues to exist in those counties, and I hereby ORDER AND DIRECT the following:

1. I authorize and empower the State Director of Emergency Management to activate those elements of the State Emergency Operations Plan that he deems necessary to further safeguard the public security, health, and welfare, and to coordinate the recovery effort from this emergency with all governmental agencies, volunteer organizations, and the private sector.

2. I authorize and empower, in accordance with N.J.S.A. App.A:9-33 et seq., the State Director of Emergency Management, who is the Superintendent of State Police, through the police agencies under his control, to determine the control and direction of the flow of such vehicular traffic on any State Highway or municipal or county road, including the right to detour, reroute, or divert any or all traffic and to prevent ingress or egress from any area that, in the State Director's discretion, is deemed necessary for the protection of the health, safety, and welfare of the public, and to remove parked or abandoned vehicles from such roadways as conditions warrant.

3. I authorize and empower the Attorney General, pursuant to the provisions of N.J.S.A. 39:4-213, acting through the Superintendent of State Police, to determine the control and direction of the flow of vehicular traffic on any State, municipal, county, or Interstate highway, and its access roads, including the right to detour, reroute, or divert any or all traffic, and to prevent ingress or egress from any area to which the declaration of emergency applies, and further authorize all law enforcement officers to enforce any such order of the Superintendent of State Police within their respective municipalities.

4. I authorize and empower the State Director of Emergency Management to order the evacuation of all persons, except for those emergency and governmental personnel whose presence the State Director deems necessary, from any area where their continued presence would present a danger to their health, safety, or welfare because of the conditions created by this emergency.

5. I authorize and empower the State Director of Emergency Management to utilize all facilities owned, rented, operated, and maintained by the State of New Jersey to house and shelter persons who may need to be evacuated from a residence, dwelling, building, structure, or vehicle during the course of this emergency.

6. I authorize and empower the executive head of any agency or instrumentality of the State government with authority to promulgate rules to waive, suspend, or modify any existing rule the enforcement of which would be detrimental to the

public welfare during this emergency, notwithstanding the provisions of the Administrative Procedure Act or any law to the contrary for the duration of this Executive Order, subject to my prior approval and in consultation with the State Director of Emergency Management. Any such waiver, modification, or suspension shall be promulgated in accordance with N.J.S.A. App. A:9-45.

7. I authorize and empower the Adjutant General, in accordance with N.J.S.A. 38A:2-4 and N.J.S.A. 38A:3-6.1, to order to active duty such members of the New Jersey National Guard who, in the Adjutant General's judgment, are necessary to provide aid to those localities where there is a threat or danger to the public health, safety, and welfare and to authorize the employment of any supporting vehicles, equipment, communications, or supplies as may be necessary to support the members so ordered.

8. In accordance with the N.J.S.A. App.A:9-34 and N.J.S.A. App.A:9-51, I reserve the right to utilize and employ all available resources of the State government and of each and every political subdivision of the State, whether of persons, properties, or instrumentalities, and to commandeer and utilize any personal services and any privately owned property necessary to protect against this emergency.

9. This Order shall take effect immediately and shall remain in effect until such time as it is determined by me that an emergency no longer exists.

Dated February 9, 2010.

EXECUTIVE ORDER NO. 14

WHEREAS, The State of New Jersey ("State") is confronting an unprecedented financial crisis affecting all levels of government; and

WHEREAS, Actual and anticipated revenue collections by the State continue to fall far below the amounts estimated in the Fiscal Year 2010 Appropriations Act, P.L.2009, c.68; and

WHEREAS, The Acting State Treasurer estimates that the State expects to realize revenue shortfalls in its sales and corporate business taxes of approximately $442 million and $180 million, respectively; and

WHEREAS, The Acting State Treasurer further projects that realty transfer and insurance premium taxes are expected to be short by a combined $200 million; and

WHEREAS, These newly identified tax shortfalls added to more than $415 million in revenue shortfalls previously identified, create a projected aggregate net revenue shortfall of $1.212 billion for Fiscal Year 2010, taking into account other appropriate revenue adjustments; and

WHEREAS, In addition to the expected annual revenue shortfall, the Acting State Treasurer has further revised the estimated July 1, 2009 beginning balance to $613.8 million, representing a reduction of $121 million from the original estimated beginning balance contained in the Fiscal Year 2010 Appropriations Act; and

WHEREAS, The combination of the aforementioned anticipated annual revenue shortfall and the revised beginning balance results in a total projected funding shortage for Fiscal Year 2010 of approximately $1.333 billion; and

WHEREAS, The State further anticipates additional spending needs during Fiscal Year 2010 of $872 million, including essential programs administered by the Department of Human Services and additional municipal aid; and

WHEREAS, The combined total estimated funding shortage and additional spending needs for Fiscal Year 2010 is projected to exceed $2.2 billion; and

WHEREAS, The New Jersey State Constitution requires the Governor to take care that the laws of this State be faithfully executed, N.J.Const. (1947) Article V, Section 1, Paragraph 11, including ensuring compliance with the constitutional mandate that a balanced State budget be maintained, N.J.Const. (1947) Article VIII, Section 2, Paragraph 2; and

WHEREAS, The Governor is entrusted with the responsibility to protect the health, safety, and welfare of the people of this State, as well as the responsibility to aid in the prevention of damage, loss, or destruction of property in the event of emergency affecting the State pursuant to the Disaster Control Act, N.J.S.A. App.A:9-30 et seq.; and

WHEREAS, During the course of a fiscal year, the Governor may take steps to freeze State spending if it appears that revenues have fallen below those originally anticipated by impounding certain funds pursuant to N.J.S.A. 52:27B-31 to ensure that appropriations are not used to support waste, mismanagement or extravagance in a time of severely diminished fiscal resources; and

WHEREAS, In order to protect against and meet emergencies that may arise during each fiscal year, the Director of the Division of Budget and Accounting ("Director") is authorized to freeze State spending by placing certain funds in reserve pursuant to N.J.S.A. 52:27B-26 to ensure that the State's budget remains balanced; and

WHEREAS, Failure to exercise these powers would result in the State lacking sufficient resources to provide essential State services and basic operations of State government for the balance of Fiscal Year 2010, causing devastating immediate impacts on the residents of the State; and

WHEREAS, In order to determine which items of spending should be reserved or impounded, the Director has conferred with the various departments of State government to identify items which can be reduced for Fiscal Year 2010; and

WHEREAS, Aid to school districts represents a significant part of the Fiscal Year 2010 budget, and because of the magnitude of the fiscal crisis and the fact that less than five months are left in the fiscal year to address it, it is necessary to freeze a portion of State school aid in order to address this fiscal emergency; and

WHEREAS, Many school districts currently have surplus monies in their budgets that are available but not budgeted that could be made available to support those districts' current expenses during the current period of fiscal emergency; and

WHEREAS, Given the dire position of the State's finances, it is necessary to freeze State aid payments to school districts that have available resources so that the

freeze can be implemented without affecting the ability of these districts to meet the educational obligations under the state constitution or placing a school district into deficit; and

WHEREAS, In the event that the State's financial condition deteriorates rather than improves during the remainder of the current fiscal year, I intend to aggressively utilize every authority at my disposal to ensure the maintenance of a balanced State budget;

NOW, THEREFORE, I, CHRIS CHRISTIE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. A state of fiscal emergency exists in the State of New Jersey by reason of the facts and circumstances set forth above.

2. In light of these facts and circumstances, the Director is hereby ordered immediately to identify and place into reserve items of appropriation pursuant to N.J.S.A 52:27B-26 in an amount sufficient to ensure that the State budget is in balance. The Director shall notify the Governor immediately of the list of items placed into reserve. In the event that during the remainder of Fiscal Year 2010, actual revenues collected are less than the revenues estimated on January 19, 2010, the Director shall take such further actions pursuant to N.J.S.A. 52:27B-26 to place into reserve additional items of appropriation so as to maintain a balanced budget. The Director shall report to the Governor any additional items of appropriation which are placed into reserve.

3. The Director is hereby ordered, in consultation with the Commissioner of the Department of Education ("Commissioner"), to determine the amount of State school aid that must be frozen in order to meet the fiscal emergency. The Director shall report to the Commissioner the amount of school aid to be reserved under the spending freeze required by this Order.

4. The Commissioner is hereby directed to review the budgets of all school districts and determine for each school district the amount of unanticipated surplus and reserve account monies ("Surplus") available but not budgeted in such school district that could be used to support the district's educational programs by being transferred to the current operating budget in the event of a withholding of State school aid.

5. The Commissioner, consistent with his constitutional responsibilities, shall allocate the amount of State school aid determined by the Director to be frozen among all the school districts so that the amount of State school aid frozen for each school district shall not exceed the Surplus for such school district or the amount of its remaining State school aid for Fiscal Year 2010. Upon such allocation, the Commissioner shall notify the Director of the amount determined for each school district, whereupon the Director shall place into reserve from State school aid for each school district the amount specified by the Commissioner.

6. The Commissioner, as necessary and appropriate, shall exercise his statutory and constitutional powers to authorize school districts, upon their request, to transfer Surplus to their current operating accounts to pay ongoing costs of operation.

7. The Acting State Treasurer, in consultation with the Acting Attorney General, is hereby directed to study and make any appropriate recommendations to the Governor considering the projected costs to the State and local entities associated with previously negotiated employee salary structures and, if appropriate, presenting proposed alternatives to achieve necessary cost savings in light of the current fiscal crisis.

8. The Acting State Treasurer, in consultation with the Director, is further directed to monitor the collection of revenues and expenditures and to report to the Governor on an ongoing basis so that adjustments, if any, can be made by placing in reserve or impounding items of appropriation in order to meet changing fiscal conditions.

9. All State officials and agencies shall cooperate fully in the implementation of this Order.

10. I have taken what I believe to be the least intrusive actions available to me in order to address this fiscal emergency; however, until such time as the current state of fiscal emergency is terminated, I reserve the right to take such additional actions, invoke such additional emergency powers, and issue such emergency orders or directives as may be necessary to meet the potentially devastating problems presented by this emergency, to protect the health, safety, and welfare of the people of this State, and to ensure the continued provision of essential State services.

11. This Order shall take effect immediately and shall remain in full force and effect until rescinded, modified, or supplemented by me in response to the ongoing fiscal emergency, or until such time as a General Appropriations Act for Fiscal Year 2011 is enacted.

Dated February 11, 2010.

EXECUTIVE ORDER NO. 15

WHEREAS, Ensuring fiscal responsibility is among my highest priorities as Governor of the State of New Jersey and is directly related to my obligation to supervise the principal departments and agencies of State Government; and

WHEREAS, In order to address the current economic and fiscal emergency in New Jersey at a time of unprecedented economic crisis, all spending by independent State Boards, Commissions, Authorities and Agencies (hereinafter referred to as "State Authorities") must be scrutinized more closely than ever before; and

WHEREAS, Those State Authorities have capital and operating budgets that collectively amount to billions of dollars of public funds annually, but operate without many of the safeguards applicable to other agencies of the Executive Branch of State government; and

WHEREAS, The State Authorities are part of the Executive Branch and thus are subject to the Governor's executive powers pursuant to Article V of the State Constitution; accordingly, it is especially vital in these times of unprecedented economic distress that these State Authorities employ the same safeguards that are standard practices in other parts of the Executive Branch; and

WHEREAS, The spending at certain State Authorities remains excessive and wasteful, necessitating my veto of agency actions that would have ratified or approved wasteful and extravagant spending; and

WHEREAS, A prime example of such wasteful and unnecessary spending is the practice of State Authorities hiring lobbyists and legislative agents at taxpayer and ratepayer expense to lobby the Executive Branch, the State Legislature, and the federal government; and

WHEREAS, The concept of one part of State Government hiring a lobbyist or legislative agent to enhance communications with another part of State Government is precisely the type of wasteful and extravagant use of taxpayer funds that has instilled and reinforced the public's mistrust as to the manner in which limited and precious State dollars are spent; and

WHEREAS, Recent news reports have documented instances of excessive and wasteful spending by State Authorities for out-of-state travel by Authority board members and employees; and

WHEREAS, Several employees of State Authorities have secured employment contracts with lucrative termination clauses (sometimes referred to as "golden parachutes") that are especially abusive of the public trust during this time of economic difficulty and recession;

NOW THEREFORE, I, CHRIS CHRISTIE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby, ORDER and DIRECT:

1. No State Authority shall hire, enter into or renew any contract with any lobbyist or legislative agent, unless expressly authorized in writing in advance by the Governor's Office.

2. All existing contracts between State Authorities and lobbyists or legislative agents shall be terminated as soon as is legally permissible. If it is not possible to terminate said contract(s), all State Authorities are hereby prohibited from renewing such contracts upon expiration of the current contractual term(s).

3. All State Authority heads are directed immediately to identify all contracts between their State Authority and lobbyists or legislative agents and provide a list and a copy of such contracts to the Governor's Office for review not later than March 1, 2010.

4. No State Authority shall approve any travel by any employee or Authority Board member in excess of two-hundred and fifty dollars ($250.00) paid out of Authority funds unless approval is obtained from the Governor's Office prior to such travel. Any approved travel must be directly related to the employee's or the Board

member's official State duties. Any travel costs in excess of the two-hundred and fifty dollar limit not approved as provided herein shall be borne by the employee or Board member personally and shall not be eligible for reimbursement.

5. No State Authority shall include any financial incentive relating to termination or separation from employment in employment contracts with its employees, unless expressly authorized in writing by the Governor's Office.

6. All existing contracts between State Authorities and employees that provide for financial compensation to the employee upon termination of the employment contract before the stated end date of said contract shall be terminated as soon as is legally permissible. If it is not possible to terminate said contract(s), all State Authorities are hereby prohibited from renewing same upon expiration of the contractual term.

7. All State Authority heads are directed immediately to identify all contracts between their Authority and its employees that contain provisions for financial compensation upon early termination or separation from employment and provide a list of same and a copy of such contracts to the Governor's Office for review not later than March 1, 2010.

8. The commissioner or head of each principal department in the Executive Branch (hereinafter referred to as "Cabinet Member") is hereby directed to identify the State Authorities established in or allocated to such department and to provide a recommendation to the Governor's Office not later than May 15, 2010, regarding whether each such State Authority should continue to exist or be eliminated. With regard to each such State Authority that is recommended to continue in existence, each Cabinet Member shall indicate his or her recommendation regarding whether the positions on each such State Authority should be compensated or not and whether reimbursement for expenses should be permitted. Any recommendation to provide compensation or reimbursement of expenses shall include a detailed explanation in support of such recommendation.

9. This Order shall take effect immediately.

Dated February 23, 2010.

EXECUTIVE ORDER NO. 16

WHEREAS, United States Army Sergeant Marcos Gorra, was born in Santiago de Cuba, Cuba, and came to the United States when he was seven years old; and

WHEREAS, After graduating from North Bergen High School, Sergeant Gorra enlisted in the Army and was assigned to the 82nd Airborne Division in February 2008 and then the 82nd Combat Aviation Brigade; and

WHEREAS, Sergeant Gorra served in Korea and at Fort Bragg, North Carolina, where he earned his paratrooper certification; and

WHEREAS, Sergeant Gorra was an ambitious and courageous young man who loved his country and the military and had plans to become a New Jersey State Trooper after serving in the Army; and

WHEREAS, Sergeant Gorra tragically lost his life while heroically and selflessly serving his country in southern Afghanistan; and

WHEREAS, Sergeant Gorra was a dedicated soldier as well as a loving son and brother, whose memory lives in the hearts of his family, friends, and fellow soldiers; and

WHEREAS, Sergeant Gorra's patriotism and dedicated service to his country and his fellow soldiers make it appropriate and fitting for the State of New Jersey to remember him and his family, to mark his passing, and to honor his memory;

NOW, THEREFORE, I, CHRIS CHRISTIE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of New Jersey shall be flown at half-staff at all State departments, offices, agencies, and instrumentalities during appropriate hours on Friday, March 5, 2010, in recognition and mourning of a brave and loyal American hero, United States Army Sergeant Marcos Gorra.

2. This Order shall take effect immediately.

Dated March 3, 2010.

EXECUTIVE ORDER NO. 17

WHEREAS, The current fiscal emergency confronting the State of New Jersey ("State") requires that all areas of public expenditures be carefully scrutinized for waste, inefficiency, and where appropriate, savings that may be achieved through privatization; and

WHEREAS, All levels of government must commit themselves to fiscal reform and to furthering the economic well-being of the State's overburdened taxpayers; and

WHEREAS, It is imperative that delivery of programs and services throughout all levels of government be analyzed and re-evaluated to achieve the greatest measure of effectiveness and efficiency, while maintaining the highest quality of governmental services; and

WHEREAS, Efficient, cost-effective government will benefit and enhance the State's economy, restore depleted public confidence, and allow for the continued delivery of important programs; and

WHEREAS, The New Jersey State Constitution requires the Governor to take care that the laws of this State be faithfully executed, N.J.Const. (1947) Article V, Section 1, Paragraph 11, including ensuring compliance with the constitutional mandate that a balanced State budget be maintained, N.J.Const. (1947) Article VIII, Section 2, Paragraph 2; and

WHEREAS, As Governor, I have the responsibility and the authority to ensure that State government and its various agencies and instrumentalities operate as efficiently and as effectively as possible; and

WHEREAS, Numerous State executive branch agencies and independent authorities presently administer aid and grant programs that provide billions of dollars annually in funding to local governments and school districts; and

WHEREAS, In light of the currently dire fiscal circumstances confronting the State, it is essential that all government operations in New Jersey, including executive branch agencies, State and local independent authorities, local and county governments, and school districts, be subjected to a fresh, candid, and independent examination that is focused on achieving significant efficiencies and cost-savings in the near term; and

WHEREAS, Such a review should be conducted by individuals drawn from outside of government who possess the expertise, experience, and skills required to conduct a fair and independent evaluation of how privatization of certain functions currently being performed by government can most effectively meet the numerous competing demands placed on the State and local units; and

WHEREAS, Based on my review of hundreds of options presented to me for potentially balancing the FY 2011 budget, it has become clear that widespread implementation of common-sense efficiencies in those areas of the budget where cuts are realistically achievable, such as personnel savings, has been hindered by legal impediments, many of which were needlessly self-imposed by the prior administration; and

WHEREAS, For example, as part of a perceived budget solution, the previous administration agreed to an unreasonable "memorandum of agreement" ("MOA") that purports to prevent the State from taking common sense management approaches to achieve personnel efficiencies in the near term; and

WHEREAS, In this regard, while a significant component of the annual appropriations act supports state employee salaries and benefits, the MOA further purports to limit the managerial flexibility of the State with respect to employee furloughs and layoffs and to penalize the State in the event that furloughs or layoffs are implemented in response to the current fiscal emergency; and

WHEREAS, Delaying previously negotiated wage increases until after the end of the prior administration has resulted in the State having reduced flexibility to manage its workforce and effectively increased the costs that will be associated with achieving near-term savings by ensuring rounds of litigation in order to preserve basic managerial prerogatives with respect to the size and composition of the State workforce; and

WHEREAS, Precisely at a time when the State most urgently needs flexibility to manage its wage and salary payments and the size of its workforce, the MOA needlessly purports to limit the State's ability to manage its escalating wage and salary costs, while simultaneously preventing meaningful managerial control of the State workforce;

NOW, THEREFORE, I, CHRIS CHRISTIE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. There is hereby created a New Jersey Privatization Task Force, hereinafter referred to as the Task Force.

2. The Task Force shall consist of five (5) members appointed by the Governor who shall serve at his pleasure. The Governor shall select a chairperson from among the members of the Task Force. All members of the Task Force shall serve without compensation. The Task Force shall organize as soon as practicable after the appointment of its members.

3. The Task Force is charged with developing recommendations for the Governor for a comprehensive approach regarding the privatization of State and local services in light of the State's current fiscal condition. In developing its recommendations, the Task Force shall carefully consider the current fiscal emergency, the necessity of achieving reforms and savings in Fiscal Year 2011, the State's long-term economic interests, and this Administration's commitment to ensuring that the State's resources are managed responsibly for the benefit of the citizens of New Jersey. The Task Force shall focus on a number of critical issues, including: (a) which government functions are or may be appropriate for privatization; (b) current legal and practical impediments to privatization; (c) ensuring that the scope and quality of services is not inappropriately diminished; and (d) such other matters as may be referred to the Task Force by the Governor.

4. The Department of the Treasury shall provide staff support to the Task Force. The Task Force shall be authorized to call upon any department, office, division, or agency of this State to supply it with any information, personnel, or other assistance available as the Task Force deems necessary to discharge its duties under this Order. Each department, office, division, and agency of this State is hereby required, to the extent not inconsistent with law, to cooperate fully with the Task Force within the limits of its statutory authority and to furnish the Task Force with such assistance on as timely a basis as is necessary to accomplish the purposes of this Order. The Task Force may consult with experts or other knowledgeable individuals in the public or private sector on any aspect of its mission.

5. In formulating its recommendations pursuant to this Order, the Task Force may elicit public input from individuals, organizations, community groups, and other interested parties.

6. The Task Force may report to the Governor from time to time and shall issue a final report to the Governor setting forth the Task Force's recommendations pursuant to this Order no later than May 31, 2010. The Task Force shall expire upon the issuance of its final report.

7. The final report of the Task Force shall be provided to the Legislature and shall be made available to the public.

8. This Order shall take effect immediately.

Dated March 11, 2010.

EXECUTIVE ORDER NO. 18

WHEREAS, Beginning on March 12, 2010 and continuing through the present time, severe weather conditions, including heavy rains, high winds, tidal and coastal flooding, main stream and river flooding, and progressing runoff have threatened to damage or destroy homes and other structures and to impede transportation and the flow of traffic throughout the State; and

WHEREAS, As a result of these weather conditions, more than 325,000 residents throughout the State of New Jersey have suffered power outages and more than 200,000 residents continue to endure power outages; and

WHEREAS, Major flooding is occurring on the Raritan and Passaic Rivers and continuing rain, saturated ground, and progressing runoff will worsen flooding conditions in the Raritan and Passaic River basins and in other rivers and streams throughout New Jersey; and

WHEREAS, The aforesaid weather and flood conditions make it difficult or impossible for citizens to obtain the necessities of life, as well as essential services such as police, fire, and first aid; and

WHEREAS, The aforesaid weather and flood conditions constitute a disaster from a natural cause, which threatens and presently endangers the health, safety, and resources of the residents of one or more municipalities and counties of this State; and

WHEREAS, This situation is too large in scope to be handled by the normal county and municipal operating services in some parts of this State, and this situation may spread to other parts of the State; and

WHEREAS, The Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. App. A: 9-33 et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:2-4 and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers;

NOW, THEREFORE, I, CHRIS CHRISTIE, Governor of the State of New Jersey, in order to protect the health, safety, and welfare of the people of the State of New Jersey DO DECLARE and PROCLAIM that a State of Emergency presently exists throughout the State of New Jersey; and I hereby ORDER and DIRECT the following:

1. I authorize and empower the State Director of Emergency Management to activate those elements of the State Emergency Operations Plan that he deems necessary to further safeguard the public security, health, and welfare, and to coordinate the recovery effort from this emergency with all governmental agencies, volunteer organizations, and the private sector.

2. I authorize and empower, in accordance with N.J.S.A. App.A:9-33 et seq., the State Director of Emergency Management, who is the Superintendent of State Police, through the police agencies under his control, to determine the control and direction of the flow of such vehicular traffic on any State Highway or municipal or county road, including the right to detour, reroute, or divert any or all traffic and to prevent ingress or egress from any area that, in the State Director's discretion, is deemed necessary for the protection of the health, safety, and welfare of the public, and to remove parked or abandoned vehicles from such roadways as conditions warrant.

3. I authorize and empower the Attorney General, pursuant to the provisions of N.J.S.A. 39:4-213, acting through the Superintendent of State Police, to determine the control and direction of the flow of vehicular traffic on any State, municipal, county, or Interstate highway, and its access roads, including the right to detour, reroute, or divert any or all traffic, and to prevent ingress or egress from any area to which the declaration of emergency applies, and further authorize all law enforcement officers to enforce any such order of the Superintendent of State Police within their respective municipalities.

4. I authorize and empower the State Director of Emergency Management to order the evacuation of all persons, except for those emergency and governmental personnel whose presence the State Director deems necessary, from any area where their continued presence would present a danger to their health, safety, or welfare because of the conditions created by this emergency.

5. I authorize and empower the State Director of Emergency Management to utilize all facilities owned, rented, operated, and maintained by the State of New Jersey to house and shelter persons who may need to be evacuated from a residence, dwelling, building, structure, or vehicle during the course of this emergency.

6. I authorize and empower the executive head of any agency or instrumentality of the State government with authority to promulgate rules to waive, suspend, or modify any existing rule the enforcement of which would be detrimental to the public welfare during this emergency, notwithstanding the provisions of the Administrative Procedure Act or any law to the contrary for the duration of this Executive Order, subject to my prior approval and in consultation with the State Director of Emergency Management. Any such waiver, modification, or suspension shall be promulgated in accordance with N.J.S.A. App. A:9-45.

7. I authorize and empower the Adjutant General, in accordance with N.J.S.A. 38A:2-4 and N.J.S.A. 38A:3-6.1, to order to active duty such members of the New Jersey National Guard who, in the Adjutant General's judgment, are necessary to provide aid to those localities where there is a threat or danger to the public health, safety, and welfare and to authorize the employment of any supporting vehicles, equipment, communications, or supplies as may be necessary to support the members so ordered.

8. In accordance with the N.J.S.A. App.A:9-34 and N.J.S.A. App.A:9-51, I reserve the right to utilize and employ all available resources of the State government and of each and every political subdivision of the State, whether of persons,

properties, or instrumentalities, and to commandeer and utilize any personal services and any privately owned property necessary to protect against this emergency.

9. This Order shall take effect immediately and shall remain in effect until such time as it is determined by me that an emergency no longer exists.

Dated March 14, 2010.

EXECUTIVE ORDER NO. 19

WHEREAS, Executive Order No. 103 (2008) included certain provisions concerning the annual State budget; and

WHEREAS, Executive Order No. 135 (2009) temporarily suspended the provisions of Executive Order No. 103 (2008); and

WHEREAS, As Governor, I have the responsibility to ensure a balanced budget, manage the operations of State government effectively and efficiently, and maintain necessary government programs and assistance to the public;

NOW, THEREFORE, I, CHRIS CHRISTIE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. Executive Order No. 103 (2008) and Executive Order No. 135 (2009) are hereby rescinded.

2. This Order shall take effect immediately.

Dated March 15, 2010.

EXECUTIVE ORDER NO. 20

WHEREAS, Executive Order No. 12 (2010) established a Housing Opportunity Task Force that was charged with making recommendations to the Governor to reform the burdensome and unworkable procedures governing the provision of affordable housing in New Jersey (the "Task Force"); and

WHEREAS, The Task Force has completed its work and submitted its final report to the Governor and to the Commissioner of the Department of Community Affairs setting forth its recommendations; and

WHEREAS, The members of the Task Force should be commended for their hard work and dedicated service on behalf of the citizens of the State of New Jersey; and

WHEREAS, I will be reviewing the Task Force's final report and recommendations in furtherance of my commitment to reforming the unduly burdensome and unworkable procedures which currently govern affordable housing in New Jersey;

NOW, THEREFORE, I, CHRIS CHRISTIE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. Executive Order No. 12 (2010) is hereby rescinded.
2. This Order shall take effect immediately.

Dated March 20, 2010.

EXECUTIVE ORDER NO. 21

WHEREAS, United States Congressman Robert Douglas "Bob" Franks was an extraordinary figure in the public life of New Jersey, for over three decades devotedly serving the people of this State as an esteemed member of the United States House of Representatives; a member of the New Jersey General Assembly; chairman of the New Jersey Republican State Committee; and President of the HealthCare Institute of New Jersey; and, as a result of his remarkable public service, today New Jersey is a better place because of him; and

WHEREAS, Congressman Franks was born in Hackensack, New Jersey, lived in Glen Rock, New Jersey, before moving to suburban Chicago, Illinois, and returning as a teenager to Union County, New Jersey, where he attended Summit High School; and

WHEREAS, Congressman Franks graduated from DePauw University in 1973 and from Southern Methodist University School of Law in 1976; and

WHEREAS, After completing law school, Congressman Franks returned home to New Jersey and helped found the Union County Young Republicans, and served as a key advisor to numerous candidates including Senator Ray Bateman in his 1977 gubernatorial campaign, Governor Thomas Kean in his 1981 gubernatorial election, and Congressmen Jim Courter and Dean Gallo in their respective campaigns; and

WHEREAS, In 1979, Congressman Franks was elected to serve in the New Jersey General Assembly and was subsequently re-elected for six terms, representing the 22nd legislative district, which covered Union and Somerset Counties; and

WHEREAS, Among Congressman Franks' many accomplishments during his tenure in the New Jersey State Legislature, he sponsored the law creating the Transportation Trust Fund; and

WHEREAS, While serving in the General Assembly, Congressman Franks led the New Jersey Republican State Committee as its chairman from 1987 to 1989 and from 1990 to 1992, and also was elected by his Republican colleagues in the Assembly to serve as conference leader in both the 202nd and 203rd Legislatures; and

WHEREAS, In 1992, Congressman Franks was elected to the United States House of Representatives where he served for four terms until 2001, representing the

7th congressional district, which covered parts of Union, Somerset, Middlesex, and Essex Counties; and

WHEREAS, During his tenure in Congress, Congressman Franks served on the Budget Committee and Transportation & Infrastructure Committees, as well as serving as chairman of the Economic Development, Public Buildings, Hazardous Materials and Pipeline Transportation Subcommittee; and

WHERAS, During his tenure in Congress, Congressman Franks was a founder and co-chairman of the Missing and Exploited Children's Caucus; and

WHEREAS, During his tenure in Congress, Congressman Franks was a strong voice for fiscal responsibility, child protection, and for improving New Jersey's infrastructure and transportation systems; and

WHEREAS, In 2000, Congressman Franks was the Republican nominee for the United States Senate; and

WHEREAS, In 2001, Congressman Franks was a candidate for the nomination for Governor of New Jersey; and

WHEREAS, In 2001, Congressman Franks was appointed President of the Health-Care Institute of New Jersey, located in Bridgewater, New Jersey, where he continued his strong involvement in public policy by advocating for advancing New Jersey's pharmaceutical and medical technology industry, reducing the cost of healthcare, and emphasizing job creation; and

WHEREAS, Congressman Franks was a man of all the people of New Jersey and was determined to do what he thought was right for the people of New Jersey, whether it was fighting for affordable health care, child protection, the advancement of medical technology and pharmaceutical research, fiscal responsibility, or mass transit; and

WHEREAS, Congressman Franks understood not just the art of politics but the science of policy-making and was able to bridge the partisan divide in order to achieve the common good; and

WHEREAS, Congressman Franks enjoyed universal respect and affection because of his passion, pragmatism, warm-heartedness, generosity, intellect, compassion, courage, optimism, and integrity; and

WHEREAS, It is because of Congressman Franks' energy, selflessness, and graciousness that his legacy is felt across this State by so many both inside and outside of the public arena; and

WHEREAS, Congressman Franks, who will be remembered as one of the most sincere and effective public servants in New Jersey's history, inspired countless individuals to serve this State and this Nation; and

WHEREAS, Through Congressman Franks' accomplishments in both the public and private sectors, he has made New Jersey and this Nation a better place; and

WHEREAS, It is with deep sadness that we mourn the loss of Congressman Bob Franks and extend our sincere sympathy to his wife, Fran, their three daughters, his mother, his entire family, his many friends, and his colleagues; and

WHEREAS, It is appropriate to honor the achievements, the memory, and the passing of Congressman Bob Franks;

NOW, THEREFORE, I, CHRIS CHRISTIE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The Flag of the United States of America and the flag of the State of New Jersey shall be flown at half-staff at all State departments, offices, agencies, and instrumentalities during appropriate hours on Friday, April 16, 2010, in recognition and mourning of the passing of United States Congressman Bob Franks.
2. This Order shall take effect immediately.

Dated April 14, 2010.

EXECUTIVE ORDER NO. 22

WHEREAS, United States Army Corporal Michael D. Jankiewicz, graduated from Ramsey High School in 2006; and
WHEREAS, Corporal Jankiewicz was assigned to the 3rd Battalion, 75th Ranger Regiment, Fort Benning, GA; and
WHEREAS, Corporal Jankiewicz was an Army Ranger, a member of the military's elite rapid strike force that specializes in covert missions; and
WHEREAS, Corporal Jankiewicz was an ambitious and courageous young man who loved his country and the military; and
WHEREAS, Corporal Jankiewicz tragically lost his life when the CV-22 Osprey he was flying crashed in Zabul, Afghanistan; and
WHEREAS, Corporal Jankiewicz was a dedicated soldier as well as a loving son and brother, whose memory lives in the hearts of his family, friends, and fellow soldiers; and
WHEREAS, Corporal Jankiewicz's patriotism and dedicated service to his country and his fellow soldiers make it appropriate and fitting for the State of New Jersey to remember him and his family, to mark his passing, and to honor his memory;

NOW, THEREFORE, I, CHRIS CHRISTIE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of New Jersey shall be flown at half-staff at all State departments, offices, agencies, and instrumentalities during appropriate hours on Monday, April 19, 2010, in recognition and mourning of a brave and loyal American hero, United States Army Corporal Michael D. Jankiewicz.
2. This Order shall take effect immediately.

Dated April 15, 2010.

EXECUTIVE ORDER NO. 23

WHEREAS, The State of New Jersey recently experienced severe weather conditions causing damaging floods that continue to adversely affect residents and business owners in various locations in the State; and

WHEREAS, The Passaic River basin, which is an area where a number of large tributary rivers join the Passaic River situated in Passaic, Bergen, Morris and Essex Counties, was particularly hard hit by these damaging flood conditions; and

WHEREAS, New Jersey's Passaic River basin is known for chronic flooding problems during periods of heavy rainfall or snow-melt; and

WHEREAS, Many New Jersey citizens and businesses have been affected by this flooding problem and have suffered devastating losses over the years; and

WHEREAS, Severe flooding events in the Passaic River basin have resulted in loss of life and property, warranting eleven federal disaster declarations since 1903; and

WHEREAS, Approximately 20,000 homes and places of business as well as significant public infrastructure lie in the Passaic River floodplain; and

WHEREAS, The growth of residential, commercial, and industrial development in the last several decades has multiplied the threat of serious damage and loss of life from flooding in the Passaic River basin; and

WHEREAS, In other parts of the State, substantial progress has been made in addressing chronic flooding problems, such as in the Raritan River basin in Middlesex, Somerset and Union Counties, through the work of the United States Army Corps of Engineers and the Green Brook Flood Control Commission; and

WHEREAS, In contrast, the United States Army Corps of Engineers has been working on plans to reduce flooding in the Passaic River basin since 1936, but despite those efforts a comprehensive plan for the Passaic River basin has not yet been adopted; and

WHEREAS, While important steps have been taken on the local and regional levels to coordinate efforts to seek relief for flood prone communities, including but not limited to the efforts of the Passaic River Basin Flood Task Force, it is important for the State to provide ongoing leadership by creating an expert advisory commission led by the Commissioner of the Department of Environmental Protection to assist in planning measures to minimize flood impacts affecting residents and businesses, and to identify ways to minimize damage in the future; and

WHEREAS, As Governor, I am responsible for protecting the health, safety, and welfare of the people of this State, and also am entrusted with the responsibility to aid in the prevention of damage, loss, or destruction of property in the event of emergency;

NOW, THEREFORE, I, CHRIS CHRISTIE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. There is hereby created The Governor's Passaic River Basin Flood Advisory Commission ("Advisory Commission"). The Advisory Commission shall consist of seven (7) members as set forth in this paragraph. The Governor hereby appoints the Commissioner of the Department of Environmental Protection to serve as the chairperson of the Advisory Commission, and the Superintendent of the State Police or his designee to serve as a member of the Advisory Commission. The chairperson shall select the other members of the Advisory Commission, which shall be comprised of two (2) mayors who represent municipalities located in the Passaic River basin; one (1) state legislator who represents municipalities located in the Passaic River basin; and two (2) individuals with relevant expertise in the areas of engineering, flood mitigation, public planning, environmental protection, or related issues. All members of the Advisory Commission shall serve without compensation

2. The Advisory Commission shall be responsible for identifying both short-term and long-term recommendations to enhance flood mitigation efforts, emergency response planning, and streamlining requirements that impede post-flooding recovery. In reviewing the circumstances surrounding recent flooding in the Passaic River basin, the Advisory Commission shall identify ways to minimize damage in the future, thus minimizing flood impacts to residents and businesses. The Advisory Commission shall provide the State of New Jersey and local communities with an array of alternatives for flood damage reduction and environmental restoration. The Commission's charge shall include, but not be limited to, providing recommendations to the Governor regarding:

a. Expanding and expediting the buy-out of properties in the Passaic River floodway to reduce negative impacts to residents, focusing particularly on repetitive loss properties from flooding. This effort also shall include recommendations for strategically prioritizing acquisition and leveraging State Blue Acres and other funding with available federal dollars through the Federal Emergency Management Agency (FEMA) and the United States Army Corps of Engineers;

b. Identifying areas of acquisition for natural flood storage and possible creation or restoration of wetlands on both public and non-public lands;

c. Investigating the operations of the Pompton Lakes Dam flood gate project and any potential impacts to downstream communities and making recommendations for infrastructure improvements and/or operational enhancements;

d. Identifying acceptable and efficient methods to clear the river system of debris and sediments that reduce the natural capacity of the system to carry storm waters;

e. Conducting an across-the-board evaluation of existing state regulatory programs to identify needs for expedited emergency permitting and making recommendations for streamlining technical requirements, raising homes to above flood levels, interagency coordination and consistency, and financial assistance;

f. Reviewing the status and effectiveness of all county and local emergency response plans in cooperation with the New Jersey State Police Office of Emergency Management and the Department of Environmental Protection;

g. Evaluating enhancements to the Passaic River Flood Warning System such as improving existing precipitation and stream gauge networks, and developing additional flood forecast points and flood inundation maps;

h. Enhancing public involvement, information sharing and outreach for flood response;

i. Reinvigorating the U.S. Army Corps of Engineers study and analysis of potential engineering projects or a series of projects for long-term flood damage reduction;

j. Evaluating historical river characteristics to identify changes to the river system to better understand, predict, and respond to changes in flood patterns;

k. Identifying methods, including Master Plan and zoning changes, for municipalities to phase-out or prevent future development in flood hazard areas; and

l. Such other matters as may be referred to the Advisory Commission by the Governor.

3. The Department of Environmental Protection shall provide staff support to the Advisory Commission. The Advisory Commission shall be authorized to call upon any department, office, division, or agency of this State to supply it with any information, personnel, or other assistance available as the Advisory Commission deems necessary to discharge its duties under this Order. Each department, office, division, and agency of this State is hereby required, to the extent not inconsistent with law, to cooperate fully with the Advisory Commission within the limits of its statutory authority and to furnish the Advisory Commission with such assistance on as timely a basis as is necessary to accomplish the purposes of this Order.

4. The Advisory Commission may consult with experts or other knowledgeable individuals in the public or private sector on any aspect of its mission. This includes the existing Passaic River Basin Flood Task Force, members of the New Jersey congressional delegation, the Army Corps of Engineers and FEMA.

5. No later than December 31, 2010, the Advisory Commission shall submit to me its final Report that presents recommendations pursuant to the charge outlined above and on any other aspects of flood mitigation and emergency response planning identified by the Advisory Commission pursuant to this Order. The Report shall also present an initial implementation plan with identified schedules and milestone dates. The Advisory Commission shall expire within thirty (30) days of the issuance of its final report.

6. This Order shall take effect immediately.

Dated April 23, 2010.

EXECUTIVE ORDER NO. 24

WHEREAS, All members of this administration must adhere to the highest ethical standards and conduct themselves in a manner that enhances public trust in government; and

WHEREAS, All public officials must avoid conduct that violates the public trust or creates an appearance of impropriety; and

WHEREAS, To further these goals persons serving in government should have the benefit of specific standards to guide their conduct; and

WHEREAS, Ethical standards should be applied consistently to similarly situated officials in order to promote respect for those standards and provide for their enforcement; and

WHEREAS, Public disclosure of personal financial interests of public officials serves to maintain the public's faith and confidence in its governmental representatives and guards against conduct violative of the public trust; and

WHEREAS, The current financial disclosure process must be reinforced and strengthened to ensure that financial disclosure requirements are applied to members of all State government boards, commissions, and other bodies that perform important governmental functions in areas such as regulation, policy-making, and the expenditure of public funds; and

WHEREAS, Prior executive orders regarding ethics have been codified into statutory law; and

WHEREAS, The State Ethics Commission ("Ethics Commission"), has previously recognized that to alleviate a potential conflict of interest, a blind trust may be utilized in certain circumstances to erect a barrier between State officers and employees and their investments, so that such officers might be shielded from potential conflicts; and

WHEREAS, A public official's interest in any closely-held corporation that does business with governmental entities can raise the appearance of a potential conflict of interest; and

WHEREAS, The positions of Governor and Lieutenant Governor exist to serve the people of New Jersey in a manner that fosters public respect, trust, and confidence, and the adoption of a Code of Conduct for the Governor and the Lieutenant Governor, which provides a clear standard of conduct, will promote public trust and confidence; and

WHEREAS, It is important that the Ethics Commission be given clear and direct authority to enforce the provisions of this Order;

NOW, THEREFORE, I, CHRIS CHRISTIE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

I. PERSONAL FINANCIAL DISCLOSURE

1. Every public employee and public officer, as such terms are defined in paragraph 6 of this section, shall file a sworn and duly notarized Financial Disclosure statement, or other such authentication as the Ethics Commission may require to facilitate electronic filing, which is current as of five days prior to the date of filing. Each statement shall include the following information:

a. The name and position of the public employee or public officer;

b. Any occupation, trade, business, profession or employment engaged in by the public employee or public officer, his or her spouse or domestic partner, partner in a civil union and dependent children;

c. (1) A list of all assets having a value of more than $1,000, both tangible and intangible, in which a direct or indirect interest is held (as of the statement date) by the public employee or public officer, his or her spouse or domestic partner, partner in a civil union and dependent children. Where stocks and bonds are involved, there shall be included the name of the company, mutual fund, holding company or government agency issuing them (whenever such interest exists through ownership in a mutual fund or holding company, the individual stocks held by such mutual fund or holding company need not be listed; whenever such interest exists through a beneficial interest in a trust, the stocks and bonds held in such trust shall be listed only if the public employee or public officer has knowledge of what stocks and bonds are held). Where more than 10 percent of the stock of the corporation is held, the percentage of ownership shall be stated. The list shall include any direct or indirect interest, whether vested or contingent, in any contract made or executed by a government instrumentality. In the case of real estate interests, there shall be given the location, general nature and acquisition date of any real property in New Jersey in which any direct, indirect, vested or contingent interest is held, together with the names of all individuals or entities who share a direct or indirect interest therein and the name of any government instrumentality that is a tenant of such property or that has before it an application, complaint or proceeding directly affecting such property.

(2) The value of assets of a public employee and his or her spouse, domestic partner, or partner in a civil union shall be listed according to the following value categories:

(a) greater than $1,000 but not more than $5,000;
(b) greater than $5,000 but not more than $25,000;
(c) greater than $25,000 but not more than $50,000;
(d) greater than $50,000 but not more than $100,000;
(e) greater than $100,000 but not more than $250,000;
(f) greater than $250,000 but not more than $500,000;
(g) greater than $500,000.

These assets shall be valued as of the statement date; provided, however, that when the value cannot be determined as of that date, a separate valuation date shall be specified for the particular asset.

(3) The value of assets of (a) the dependent children of a public employee or (b) a public officer, his or her spouse, domestic partner or partner in a civil union and dependent children need not be disclosed unless specifically requested by the Governor or the Ethics Commission.

d. (1) A list of all liabilities of the public employee or public officer, his or her spouse, domestic partner, or partner in a civil union and dependent children, except liabilities which are:

(a) less than $10,000 and owed to a relative as defined in paragraph 6 of this section;

(b) less than $1,000 and owed to any other person;

(c) loans secured by a personal motor vehicle, household furniture or appliances where the loan did not exceed the purchase price of the item and the outstanding balance did not exceed $10,000 as of the close of the preceding calendar year; and

(d) revolving charge accounts where the outstanding liability does not exceed $10,000 as of the close of the preceding calendar year.

(2) The value of liabilities shall be listed by category in the same manner as required by paragraph 1(c)(2) above. However, the value of the liability of a dependent child of a public employee or public officer need not be disclosed unless specifically requested by the Governor or the Ethics Commission.

e. A list of all liabilities otherwise subject to disclosure pursuant to paragraph (d) above of the public employee or public officer, his or her spouse or domestic partner, partner in a civil union and dependent children which have been forgiven by the creditor within 12 months of the statement date. For each such forgiven liability so listed, the name of the creditor to whom such a liability was owed shall be stated;

f. A list of all sources of income of the public employee or public officer, his or her spouse or domestic partner, partner in a civil union and dependent children, including all compensated employment of whatever nature, all directorships or other fiduciary positions for which compensation has or will be claimed, all capital gains including a description of the individual sources of such gains, all contractual arrangements producing or expected to produce income, and all honoraria, lecture fees, gifts and other gratuities (cash or non-cash), and other miscellaneous sources of income including, but not limited to, interest, dividends, royalties and rents. Statements filed before July 1 of any year shall disclose sources of income for the preceding calendar year. Statements filed after July 1 of any year shall provide this information for the twelve-month period immediately preceding the filing date. The amount of such income received shall be listed and valued by category in the same manner of assets as set forth in paragraph c(1) through c(3) above. However, the amount of income of (1) the dependent children of a public employee, or (2) a public officer, his or her spouse, domestic partner or partner in a civil union and dependent children need not be disclosed unless specifically requested by the Governor or the Ethics Commission. Sources of income that are not required to be reported are:

(1) cash gifts in an aggregated amount of less than $100 received during the preceding twelve months from a person;

(2) non-cash gifts with an aggregated fair market value of less than $200 received during the preceding twelve months from a person; and

(3) gifts with an aggregated cash or fair market value of less than $3,000 received during the preceding twelve months from a relative as defined in paragraph 6 of this section.

g. A list of any offices, trusteeships, directorships or positions of any nature, whether compensated or uncompensated, held by the public employee or public

officer, his or her spouse or domestic partner, partner in a civil union and dependent children with any firm, corporation, association, partnership or business. If any firm, corporation, association, partnership or business does business with or is licensed, regulated or inspected by a State agency or does business with a casino license holder or applicant, the State agency, casino or applicant must be identified.

2. Each statement shall contain a certification by the public employee or public officer that he or she has read the statement, that to the best of his or her knowledge and belief it is true, correct and complete and that he or she has not transferred and will not transfer any asset, interest or property for the purpose of concealing it from disclosure while retaining an equitable interest therein.

3. a. Within 120 days from the effective date of this Order, each public employee and public officer who has not already done so shall file the signed and notarized statement required herein or other such authentication as the Ethics Commission may require to facilitate electronic filing with the Ethics Commission. In furtherance of its duties under the Conflicts of Interest Law, N.J.S.A. 52:13D-12 et seq., and pursuant to this Executive Order, the Ethics Commission shall review each statement to determine its conformity with the provisions of this Order and other applicable provisions of the law. Upon approving such a statement for filing, the Commission shall file and maintain a copy of it for public inspection and copying in accordance with the procedures set forth in N.J.S.A. 47:1A-1 et seq. and shall post the statement on its website pursuant to N.J.S.A. 52:13D-21(n);

b. Each person who becomes a public employee or public officer after the effective date of this Order shall satisfy the filing requirements of this Order within 120 days of assuming office or commencing employment, unless the Ethics Commission or its staff grants to such public employee or public officer an extension from the filing deadline. Such an extension shall not be granted more than twice and shall not be for more than 30 days each;

c. Updated statements shall be filed on the May 15 next succeeding the submission of the original statement and each May 15 thereafter provided, however that public employees and public officers who file statements on or after January 19, 2010 but prior to May 15, 2010 need not file an updated statement on May 15, 2010.

4. The Ethics Commission shall keep the approved statements on file for so long as the person submitting such statements is a public employee or public officer of this State, and for five years thereafter.

5. The Ethics Commission shall have the primary responsibility for assuring the proper administration and implementation of this Order and shall have the power to perform acts necessary and convenient to this end, including, but not limited to, preparing and distributing forms and instructions to be utilized by public employees and public officers in complying with this Order.

6. Except as otherwise herein provided, for purposes of this section:

a. "Public employee" shall mean any person holding any of the following offices in the Executive Branch of the State Government, together with any equivalent offices added to such a list by subsequent written determination of the Governor with notice to the persons affected:

(1) The Governor;

(2) The Lieutenant Governor;

(3) The head of each principal department;

(4) The chiefs of staff and assistant or deputy heads of each principal department to include all assistant and deputy commissioners of such departments;

(5) The head and the assistant heads of a division of each principal department, or any person exercising substantially similar authority for any board or commission which is organized as in but not of a principal department or any independent authority;

(6) The executive or administrative head and assistant heads of:

(i) any board or commission which is organized in but not of a principal department or

(ii) any independent authority;

(7) The following members of the staff of the Office of the Governor:

(i) Chief of Staff;

(ii) Chief Counsel to the Governor;

(iii) Director of Communications;

(iv) Deputy Chiefs of Staff;

(v) Deputy Chief Counsel;

(vi) Director of the Authorities Unit;

(vii) Appointments Counsel;

(viii) Director of Operations; and

(ix) Any deputy or principal administrative assistant to any of the foregoing members of the staff of the Office of the Governor;

(8) Chief Executive Officers and Deputy Chief Executive Officers of the psychiatric hospitals and developmental centers administered by the Department of Human Services;

(9) Members of the State Board of Agriculture;

(10) Members of the State Board of Education;

(11) Members of the State Board of Public Utilities;

(12) Members of the State Parole Board;

(13) Presidents of the State Colleges and Universities; and

(14) the State Comptroller

b. "Public officer" shall mean:

(1) the members of the following boards, commissions, independent authorities and public corporations, together with any other equivalent offices or bodies and such other offices or bodies added to such list by subsequent determination of the Governor:

(i) Agricultural Development Committee;

(ii) Atlantic City Convention Center Authority;

(iii) Capital City Redevelopment Corporation;

(iv) Casino Reinvestment Development Authority;

(v) Catastrophic Illness in Children Relief Fund;

(vi) Civil Service Commission;

(vii) Commission on Higher Education;
(viii) Commission on Spinal Cord Research;
(ix) Council on Affordable Housing;
(x) Development Authority for Small Business, Minorities and Women Enterprises;
(xi) Educational Facilities Authority;
(xii) Election Law Enforcement Commission;
(xiii) Garden State Preservation Trust;
(xiv) Government Records Council;
(xv) Governor's Council on Alcoholism and Drug Abuse;
(xvi) Health Care Administration Board;
(xvii) Health Care Facilities Financing Authority;
(xviii) Higher Education Student Assistance Authority;
(xix) Highlands Water Protection and Planning Council;
(xx) Individual Health Coverage Board;
(xxi) Local Finance Board;
(xxii) Motor Vehicle Commission;
(xxiii) New Jersey Building Authority;
(xxiv) New Jersey Commission on Brain Injury Research;
(xxv) New Jersey Commission on Science and Technology;
(xxvi) New Jersey Council on Developmental Disabilities;
(xxvii) New Jersey Cultural Trust;
(xxviii) New Jersey Economic Development Authority;
(xxix) New Jersey Historic Trust Commission;
(xxx) New Jersey Housing and Mortgage Financing Agency;
(xxxi) New Jersey Marine Science Consortium;
(xxxii) New Jersey Meadowlands Commission;
(xxxiii) New Jersey Public Broadcasting Authority;
(xxxiv) New Jersey Racing Commission;
(xxxv) New Jersey Real Estate Commission;
(xxxvi) New Jersey Redevelopment Authority;
(xxxvii) New Jersey Sports and Exposition Authority;
(xxxviii) New Jersey State Council on the Arts;
(xxxix) New Jersey Technology Governing Board;
(xl) New Jersey Transit Corporation;
(xli) New Jersey Transportation Trust Fund Authority;
(xlii) New Jersey Turnpike Authority;
(xliii) New Jersey Urban Enterprise Zone Authority;
(xliv) North Jersey District Water Supply Commission;
(xlv) Office of Information Technology Governing Board;
(xlvi) Passaic Valley Sewerage Commission;
(xlvii) Passaic Valley Water Commission;
(xlviii) Pinelands Commission;
(xlix) Public Employment Relations Commission;

(l) School Ethics Commission;
(li) Schools Construction Corporation;
(lii) Shell Fisheries Council;
(liii) Small Employer Health Benefits Program;
(liv) South Jersey Port Corporation;
(lv) South Jersey Transportation Authority;
(lvi) State Athletic Control Board;
(lvii) State Board of Mediation;
(lviii) State Economic Recovery Board for Camden;
(lix) State Ethics Commission;
(lx) State Investment Council
(lxi) State Lottery Commission;
(lxii) State Planning Commission;
(lxiii) Tidelands Resource Council;
(lxiv) Urban Development Corporation;
(lv) Wastewater Treatment Trust; and
(lvi) Water Supply Authority.

(2) The members of the governing boards of State Colleges and Universities.

(3) Individuals appointed as a New Jersey member to the following agencies:
(i) Atlantic Interstate Low-Level Radioactive Waste Management Compact;
(ii) Atlantic States Marine Fisheries Commission;
(iii) Clean Ocean and Shore Trust Committee;
(iv) The Delaware River and Bay Authority;
(v) Delaware River Basin Commission;
(vi) Delaware River Joint Toll Bridge Commission;
(vii) Delaware River Port Authority;
(viii) Delaware Valley Regional Planning Commission;
(ix) Interstate Environmental Commission;
(x) Palisades Interstate Park Commission;
(xi) Port Authority of New York and New Jersey;
(xii) Waterfront and Airport Commission of New York and New Jersey.

c. "Government instrumentality" shall mean the Legislative, Judicial, and Executive Branches of State government including any office, department, division, bureau, board, commission, council, authority or agency therein and any county, municipality, district, public authority, public agency or other political subdivision or public body in the State;

d. "State agency" shall mean any of the principal departments in the Executive Branch of State Government, and any division, board, bureau, office, commission, or other instrumentality within or created by such department, and any independent State authority, commission, instrumentality or agency;

e. "Relative" shall mean a spouse, domestic partner, partner in a civil union, son, daughter, grandson, granddaughter, father, mother, grandfather, grandmother, great-grandfather, great-grandmother, brother, sister, nephew, niece, uncle or aunt.

Relatives by adoption, half-blood, marriage or remarriage shall be treated as relatives of the whole kinship.

f. "Domestic partner" shall mean "domestic partner" as defined in P.L. 2003, c. 246 (N.J.S.A. 26:8A-3).

g. "Partner in a civil union" shall mean partner in a "civil union" as defined in P.L. 2006 c.103 (N.J.S.A. 37:1-29).

7. The Governor may from time to time direct that the prohibition on outside earned income applicable to the Governor, Cabinet members and Cabinet-level appointees defined as a "designated State officer" pursuant to N.J.S.A. 52:13D-24(d) also be applied to additional positions in the Office of the Governor.

II. BLIND TRUSTS

1. For those situations where a blind trust may be utilized by a public employee or public officer, his or her spouse or domestic partner, partner in a civil union or dependent children, and approved by the Ethics Commission, such trust shall contain the following characteristics:

a. The trust shall not contain investments or assets in which the holder's ownership right or interest is required to be recorded in a public office or those assets whose permanency makes transfer by the trustee improbable or impractical; these investments or assets would include, but not be limited to, businesses, real estate, security interests in personal property and mortgages;

b. The trust shall contain a clear statement of its purpose, namely, to remove from the grantor control and knowledge of investment of trust assets so that conflicts between grantor's responsibilities and duties as a public employee or public officer and his or her private business or financial interests will be eliminated;

c. The trust shall be irrevocable, and shall be terminated only upon the death of the public employee or public officer or upon termination of his or her status as a public employee or public officer whichever shall first occur;

d. The trustee shall be directed not to disclose to the grantor any information about any of the assets in the trust;

e. The trustee shall be required either to:

(1) prepare and file the grantor's personal income tax returns, withholding from distribution of the trust's net income amounts sufficient to pay the grantor's tax; and further to participate in the audit of the grantor's returns during the period of the trust with authority to compromise the grantor's tax liability; or

(2) submit to the grantor, for income tax purposes, a certification of income paid without identifying the assets producing such income;

f. Among its other powers, the trustee shall have authority to determine whether any of the assets originally transferred to the trustee are to be sold and, if so, when;

g. A provision shall be included in the trust agreement prohibiting the trustee from investing the trust property in corporations or businesses which do a significant amount of business with the State of New Jersey or from knowingly making

any investment in a corporation, business or venture over which the grantor has regulatory or supervisory authority by virtue of his or her official position;

h. The grantor shall retain no control over the trustee nor shall he or she be permitted to make any recommendations or suggestions as to the trust property;

i. The trustee may be a commercial trustee or a natural person;

j. The principal benefit to be retained by the grantor shall be the right to receive income from the assets transferred to the trust;

k. The trust shall not become effective until submitted and approved by the Ethics Commission; and

l. The trust agreement shall provide the trustee will give the Ethics Commission access to any records or information related to the trust which is necessary for the performance of the Commission's duties.

2. A copy of the executed blind trust agreement shall be filed with the Ethics Commission and with the head of the department in which the regular State employee holds his or her position. Attached to such copy shall be a brief statement outlining the business or financial interests from which the regular State employee seeks to remove himself or herself and the actual or potential conflicts of interest, or appearance of such conflicts, which he or she seeks to avoid by use of the trust agreement.

III. INTERESTS IN CLOSELY-HELD CORPORATIONS OR SIMILAR ENTITIES

1. a. No regular State employee who is required by law or Executive Order to submit a Financial Disclosure Statement to the Ethics Commission shall be permitted to retain any interest in any closely-held corporation, partnership, sole proprietorship, or similar business entity doing business with any New Jersey State, interstate or local government entity, except as provided in subparagraphs (b) and (c) below.

b. A person who, after this Order takes effect, becomes a regular State employee required by law or executive order to submit a Financial Disclosure Statement to the Ethics Commission and who retains any interest in any closely-held corporation, partnership, sole proprietorship, or similar business entity doing business with any New Jersey State, interstate or local government entity, shall disclose such interest in the employee's Financial Disclosure Statement. The Ethics Commission shall review this disclosure statement to determine whether the business entities in which the employee has an interest are engaged in government-related business within the meaning of this Executive Order, and whether the holdings are in compliance with the Conflicts of Interest Law, N.J.S.A. 52:13D-12 et seq. and this Executive Order. No later than 120 days from the Ethics Commission's receipt of the Financial Disclosure Statement, the Ethics Commission shall notify the employee of its findings. The employee shall be afforded 120 days after the date of notification to effectuate the orderly disposition of any asset, except as may be further extended by the Ethics Commission or to demonstrate to the Ethics Commis-

sion that the business entity has ceased to do business with a government entity in a manner prohibited by this Executive Order.

c. The provisions of subparagraphs (a) and (b) above shall not apply to any purchase, sale, contract or agreement with any government entity other than a State agency, which is made or awarded after public notice and competitive bidding as provided by the Local Government Contracts Law, N.J.S.A. 40A:11-1 et. seq., or such similar provisions contained in other applicable public bidding laws or regulations, provided that any such purchase, sale, contract or agreement, including a change in orders and amendments thereto, shall receive the prior approval of the Ethics Commission. The provisions of subparagraphs (a) and (b) do apply where the purchase, sale, contract or agreement is authorized by any of the exceptions (e.g., professional or technical services, emergent matters, and unique compatibility) provided by the Local Government Contracts Law, N.J.S.A. 40A:11-1 et seq., or such similar provisions contained in other applicable public bidding laws or regulations.

2. a. No regular State employee or special State officer who is required by law or Executive Order to submit Financial Disclosure Statements to the Ethics Commission shall be permitted to retain any interest in any closely-held corporation, partnership, sole proprietorship, or similar business entity unless the Ethics Commission shall have first determined that the employee or officer may retain such an interest in such business entity.

b. A person who, after this Order takes effect, becomes a regular State employee or special State officer required by law or executive order to submit a Financial Disclosure Statement to the Ethics Commission and who retains any interest in any closely-held corporation, partnership, sole proprietorship, or similar business entity shall disclose such interest in the employee's or officer's Financial Disclosure Statement. The Ethics Commission shall review the disclosure statement and shall determine whether the employee or officer may retain such interest in the business entity consistent with the standards set forth in the Conflicts of Interest Law, N.J.S.A. 52:13D-12 et seq., and this Executive Order. The Ethics Commission shall notify the State employee or officer of its findings no later than 120 days from the Ethics Commission's receipt of the Financial Disclosure Statement. The employee or officer shall be afforded 120 days after the date of notification to effectuate the orderly disposition of any asset or to demonstrate that the business entity has ceased the business activity in question.

3. The Ethics Commission shall review all financial disclosure statements as they may from time to time be submitted by regular State employees and special State officers to determine whether the covered persons have obtained ownership or interest in any assets that give rise to a present or potential conflict of interest, or present or potential appearance of conflict of interest, within the meaning of this Executive Order.

4. Each regular State employee or special State officer shall amend his or her financial disclosure statement within 30 days of gaining knowledge of (a) his or her, or his or her spouse's acquisition of any interest in any closely-held corporation, partnership, sole proprietorship or similar business entity; or (b) the commencement

of any business activity covered by the provisions of this Executive Order and as determined by the Ethics Commission, including, for example, a change in business plan authorizing business activity with a New Jersey State, interstate or local government entity, by a business in which the officer or employee or the employee's or officer's spouse has an interest covered by this Executive Order.

5. Any regular State employee or special State officer subject to this Executive Order who acquires an interest prohibited under this Executive Order by way of inheritance, bequest or similar circumstances beyond his or her control shall follow the procedures for disclosure and disposition set forth in paragraphs 1 and 2 of section III of this Executive Order.

6. All required divestitures shall be subject to the following conditions:

a. Divestiture must occur within the time periods prescribed above, unless otherwise extended by the Ethics Commission.

b. Ownership or control of the asset may not be transferred to a member of the regular State employee's or special State officer's immediate family.

c. The terms and conditions of any conveyance of ownership and control of the asset shall not contain any provision regarding the return of the asset to the regular State employee or special State officer subsequent to his or her State service.

7. For the purpose of section II and section III of this Order:

a. "Member of the immediate family" shall mean a spouse, domestic partner, partner in a civil union, child, parent or sibling residing in the same household.

b. "Asset" shall mean property of any kind, real and personal, tangible and intangible, having a value greater than $1,000.

c. "Interest" in a closely-held corporation, partnership, sole proprietorship or similar business entity shall mean any ownership or control of any profits or assets of such a business entity.

d. "Doing business" with any New Jersey State, interstate or local government entity shall mean business or commercial transactions involving the sale, conveyance or rental of any goods or services, and shall not include such activities as compliance with regulatory procedures.

e. "Regular State employee" shall have the same meaning as "State officer or employee" as set forth at N.J.S.A. 52:13D-13b, and "special State officer" shall have the same meaning as "Special State officer or employee" as set forth at N.J.S.A. 52:13D-13e.

f. "State agency" shall mean any of the principal departments of State government and any entity allocated therein in conformance with N.J. Const. (1947), Art. V, Sec. IV, par. 1.

g. "Domestic partner" shall mean "domestic partner" as defined in P.L. 2003, c. 246 (N.J.S.A. 26:8A-3).

IV. CODE OF CONDUCT FOR THE GOVERNOR

1. The Code of Conduct for the Governor recommended by the Advisory Panel, as established by prior executive orders, is hereby continued and shall be

applied to the position of Governor and Lieutenant Governor. The Code of Conduct is set forth in Appendix A and incorporated herein.

2. There is hereby created an Advisory Ethics Panel composed of two public members appointed by the Governor, in consultation with the Chair of the Ethics Commission. In order to be appointed as a public member, an individual shall have served as either Chief Counsel to the Governor, as Attorney General, or as a Justice of the Supreme Court or a Judge of the Superior Court. The two public members shall be appointed for a term of three years, and shall hold office until their successors are appointed and have qualified. No more than one of the public members shall be from the same political party as the Governor.

3. The Advisory Ethics Panel shall be available to advise the Governor and the Lieutenant Governor regarding conflicts issues, application of the Governor's Code of Conduct, and any other related matters for which the Governor and the Lieutenant Governor requests advice.

4. The Governor and the Lieutenant Governor, the Governor's Chief Counsel or the Ethics Liaison Officer shall seek the advice of the Advisory Ethics Panel when there are questions concerning the propriety of the Governor's conduct under the Code. When requested by the Chief Counsel or Ethics Liaison Officer, the Advisory Ethics Panel shall issue a written determination, which shall be made publicly available.

5. The Governor and the Lieutenant Governor shall abide by the judgment of the Advisory Ethics Panel as to the propriety of his actions. In the event the Panel members cannot agree on the proper resolution of a particular issue presented to it, the Governor shall not engage in the proposed activity.

6. If a question is raised with regard to the propriety of the conduct of the Governor and the Lieutenant Governor, and the Advisory Ethics Panel was not consulted by the Chief Counsel or the Ethics Liaison Officer prior to the Governor or Lieutenant Governor engaging in such conduct, the Advisory Ethics Panel shall have the discretion to review the question and to issue a public determination. In such circumstances, if the Panel finds that the Governor's or the Lieutenant Governor's actions were in violation of the Code of Conduct for the Governor and the Lieutenant Governor, the Panel shall have the power to impose penalties, including monetary sanctions.

V. ENFORCEMENT AND SANCTIONS

1. The failure of any regular or special State employee or officer covered by this Executive Order to comply with the provisions of this Executive Order shall constitute good cause for his or her removal from employment or office.

2. The State Ethics Commission shall have the authority to enforce the terms of this Executive Order.

3. Every State department, board, commission, authority, agency and instrumentality shall appoint an individual to serve as an Ethics Liaison Officer. The Ethics Commission staff shall hold quarterly meetings with all ethics liaison officers to

ensure that the requirements of the Conflict of Interest Law and this Executive Order are being understood and followed.

VI. RESCISSION

The following Executive Order is hereby superseded and rescinded and any regulations adopted and promulgated thereunder are hereby declared null and void: Executive Order No. 1 (2006).

VII. EFFECTIVE DATE

This Executive Order shall take effect immediately.

Dated April 27, 2010.

EXECUTIVE ORDER NO. 25

WHEREAS, United States Army Sergeant Ronald Alan Kubik, graduated from Manasquan High School in 2006; and

WHEREAS, Sergeant Kubik was assigned to Company D, 3rd Battalion, 75th Ranger Regiment in October 2007 after completing Infantry One Station Unit Training, the Basic Airborne Course and the Ranger Indoctrination Program in Fort Benning, GA; and

WHEREAS, Sergeant Kubik was an Army Ranger, he served as an assistant machine gunner and team leader; and

WHEREAS, Sergeant Kubik was an ambitious and courageous young man who loved his country and the military; and

WHEREAS, Sergeant Kubik tragically lost his life in an engagement with an enemy force in Logar Province, Afghanistan; and

WHEREAS, Sergeant Kubik was a dedicated soldier as well as a loving son and brother, whose memory lives in the hearts of his family, friends, and fellow soldiers; and

WHEREAS, Sergeant Kubik's patriotism and dedicated service to his country and his fellow soldiers make it appropriate and fitting for the State of New Jersey to remember him and his family, to mark his passing, and to honor his memory;

NOW, THEREFORE, I, CHRIS CHRISTIE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of New Jersey shall be flown at half-staff at all State departments, offices, agencies, and instrumentalities during appropriate hours on Thursday, April 29, 2010, in recognition and mourning of a brave and loyal American hero, United States Army Sergeant Ronald Alan Kubik.

2. This Order shall take effect immediately.

Dated April 27, 2010.

EXECUTIVE ORDER NO. 26

WHEREAS, The State of New Jersey ("State") enjoys the benefits of 31 public and 32 independent institutions of higher education throughout the State providing a broad array of undergraduate and graduate programs to over 429,000 students; and

WHEREAS, Although many of the State's higher education institutions and their administrators, educators, and students have distinguished themselves through their achievements, the State's higher education system has not met its full potential or kept pace with the higher education systems in some other states; and

WHEREAS, The State's higher education institutions have been saddled with numerous regulations, many of which are regarded by education experts as outmoded, which have hampered the ability of the State's higher education institutions to serve the State's full education needs and have driven up both administrative costs and the cost of tuition; and

WHEREAS, The State's higher education institutions have been further challenged by the lack of State capital investment over the past twenty (20) years, which has caused the State's higher education institutions to borrow funds to meet their capital investment needs, making them among the most heavily debt-burdened education institutions in the nation; and

WHEREAS, As a result of these trends and practices over the past two decades, New Jersey's higher education institutions have failed to attract many of the State's best and brightest students as evidenced by the fact that New Jersey loses more of its students to out-of-state colleges and universities than any other state in the nation; and

WHEREAS, This administration believes that New Jersey's long-term economic prosperity is tied to a robust system of higher education, which requires, among other things, a plan for capital investment to support the institutions' ability to keep pace with the demands of the modern world and to attract external funding to the State; and

WHEREAS, This administration is committed to ensuring that New Jersey's institutions of higher education are operating at their maximum potential, making the most effective and efficient use of available resources; and

WHEREAS, In light of the current fiscal emergency, the challenges confronting the system of higher education in New Jersey, and the recently enacted statute creating the new position of Secretary of Higher Education, a Task Force on Higher Education is necessary to assist in identifying challenges faced by these institutions, as well as to offer recommendations to further the quality and success of these institutions and the overall system of higher education in this State; and

WHEREAS, At the same time the Task Force is studying the important issues facing the higher education system in the State, the administration will be seeking to bring immediate relief through legislation to empower the higher education institutions to better control their costs through collective bargaining, risk management and civil service reforms, which will ultimately drive down the cost of tuition;

NOW, THEREFORE, I, CHRIS CHRISTIE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. There is hereby created a New Jersey Higher Education Task Force, hereinafter referred to as the "Task Force."

2. The Task Force shall consist of up to seven (7) members appointed by the Governor who shall serve at his pleasure. The Governor shall select a chairperson from among the members of the Task Force. The Task Force shall consist of individuals from both inside and outside government who have knowledge or expertise in the areas of higher education policy or administration, economic development, and related areas. All members of the Task Force shall serve without compensation. The Task Force shall organize as soon as practicable after the appointment of its members.

3. The Task Force is charged with developing recommendations for the Governor concerning the State's higher education system. In particular, the Task Force shall consider and make recommendations to improve the overall quality and effectiveness of the State's higher education system. In developing its recommendations, the Task Force shall specifically consider the following issues: (a) the appropriate governance structure of the State's higher education institutions and the interrelationship between these institutions and the State government; (b) the effective use of "public-private partnerships" among the institutions; (c) the need for capital investment in the institutions, and mechanisms for securing capital; (d) the current mission statements of the State's higher education institutions, and whether the resources of the State's higher education institutions are being effectively utilized and promoted; (e) the relationship between the county colleges and other institutions of higher education; (f) the relationship between the higher education institutions and the State's workforce needs; (g) the accessibility and affordability of the State's institutions of higher education, including the availability of tuition assistance; (h) the methods for distributing direct State aid and other financial support for higher education; (i) the effects of State-imposed regulations and mandates on the State's institutions of higher education; (j) the methods currently utilized for training teachers in this State and the role of higher education institutions in this process; and (k) such other matters as may be referred to the Task Force by the Governor.

4. The Task Force shall also review the current bifurcated financial disclosure requirements in the higher education community wherein Presidents of the State Colleges and Universities file financial disclosure statements, while the members of

the governing boards of the State Colleges and Universities file separate conflict of interest forms. The Task Force shall provide recommendations about the appropriate level and content of financial disclosure. Given the Task Force's consideration of this issue, members of the governing boards of the State Colleges and Universities shall not be required to file financial disclosure statements pursuant Executive Order No. 24 in the 2010 calendar year, but still shall be required to file the conflict of interest forms with the State Ethics Commission.

5. The Governor's office shall provide staff support to the Task Force. The Task Force shall be authorized to call upon any department, office, division, or agency of this State to supply it with any information, personnel, or other assistance available as the Task Force deems necessary to discharge its duties under this Order. Each department, office, division, and agency of this State is hereby required, to the extent not inconsistent with law, to cooperate fully with the Task Force within the limits of its statutory authority and to furnish the Task Force with such assistance on as timely a basis as is necessary to accomplish the purposes of this Order. The Task Force may consult with experts or other knowledgeable individuals in the public or private sector on any aspect of its mission, including but not limited to the Commission on Higher Education, the Committee Chairs and Members of the Senate and Assembly Education Committees of the State Legislature, and the leaders of the higher education institutions.

6. In formulating its recommendations pursuant to this Order, the Task Force may elicit public input from individuals, members of institutions of higher education, organizations, community groups, and other interested parties.

7. The Task Force may report to the Governor from time to time and shall issue a final report to the Governor setting forth the Task Force's recommendations pursuant to this Order no later than December 1, 2010. The Task Force shall expire upon the issuance of its final report.

8. The final report of the Task Force shall be provided to the Legislature and shall be made available to the public.

9. This Order shall take effect immediately.

Dated May 7, 2010.

EXECUTIVE ORDER NO. 27

WHEREAS, United States Army 1st Lieutenant Salvatore S. Corma, graduated from Saint Augustine Preparatory School in 2004; and

WHEREAS, 1st Lieutenant Corma graduated from the United States Military Academy at West Point in 2008; and

WHEREAS, 1st Lieutenant Corma was assigned to the 2nd Battalion, 508th Parachute Infantry Regiment, 4th Brigade Combat Team, 82nd Airborne Division based in Fort Bragg, North Carolina; and

WHEREAS, 1st Lieutenant Corma was an ambitious and courageous young man who loved his country and the military; and

WHEREAS, 1st Lieutenant Corma tragically lost his life in Afghanistan during an insurgent attack; and

WHEREAS, 1st Lieutenant Corma was a dedicated soldier as well as a loving son, whose memory lives in the hearts of his family, friends, and fellow soldiers; and

WHEREAS, 1st Lieutenant Corma's patriotism and dedicated service to his country and his fellow soldiers make it appropriate and fitting for the State of New Jersey to remember him and his family, to mark his passing, and to honor his memory;

NOW, THEREFORE, I, CHRIS CHRISTIE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of New Jersey shall be flown at half-staff at all State departments, offices, agencies, and instrumentalities during appropriate hours on Tuesday, May 11, 2010, in recognition and mourning of a brave and loyal American hero, United States Army 1st Lieutenant Salvatore S. Corma.

2. This Order shall take effect immediately.

Dated May 7, 2010.

EXECUTIVE ORDER NO. 28

WHEREAS, Frank J. "Pat" Dodd made a significant contribution to the State of New Jersey through his three decades of public service; and

WHEREAS, Senator Dodd served New Jersey as an Assemblyman, Senator, Senate President, Acting Governor, and Vice Chairman of the Casino Control Commission; and

WHEREAS, Senator Dodd was born in Orange Township, Essex County, and lived in Essex County for most of his career in state government before moving to Monmouth County; and

WHEREAS, Senator Dodd attended Upsala College and Seton Hall University, and also received an Honorary Law Degree from Seton Hall University; and

WHEREAS, Senator Dodd served in the New Jersey National Guard, attaining the rank of Sergeant; and

WHEREAS, Senator Dodd was elected to New Jersey's General Assembly, where he served from 1966 to 1970; and

WHEREAS, During his time in the Assembly, Senator Dodd served on the Labor Relations, Banking and Insurance, and Public Safety, Defense, and Veterans' Affairs Committees; and

WHEREAS, During Senator Dodd's tenure in the Assembly he was also a member of the State Tax Policy Commission, served as the first Chairman of the Governor's Youth Task Force, and served on the Consumer Fraud, Solid Waste Disposal, Welfare Study, and Clean Air Commissions; and

WHEREAS, Senator Dodd was subsequently elected to the New Jersey State Senate in 1972 and served in the Senate until 1982; and

WHEREAS, During his time in the Senate, Senator Dodd was elected as Senate President in 1974 and 1975, and in that capacity, also served as Acting Governor; and

WHEREAS, During his period of service in the Senate, Senator Dodd also served on the Agriculture and Environment Committee, the Law, Public Safety and Defense Committee, and the Revenue, Finance, and Appropriations Committee; and

WHEREAS, Senator Dodd served as Chairman of the Legislative Services Commission and as Chairman of the Senate Energy and Environment Committee; and

WHEREAS, during Senator Dodd's time in the Legislature he co-authored the New Jersey Casino Control Act; and

WHEREAS, Senator Dodd served as Chairman of the New Jersey Hazardous Waste Siting Commission; and

WHEREAS, In 1989 Senator Dodd was appointed to a five-year term on the New Jersey Casino Control Commission where he served as a Commissioner and Vice Chairman through 1993; and

WHEREAS, Outside of Senator Dodd's long career in state government he was a businessman in the hospitality industry, and served as a special envoy for the United States Department of State on various off shore and energy related issues; and

WHEREAS, Senator Dodd is remembered for his gregarious nature, optimism, humor, and ability to bring people together; and

WHEREAS, Senator Dodd was a trusted advisor, friend, and mentor to many people; and

WHEREAS, It is with deep sadness that we mourn the loss of Senator Dodd, and extend our sincere sympathy to his wife, sister, extended family, and friends; and

WHEREAS, In recognition of his achievements and service to New Jersey, it is fitting and appropriate to honor the memory and passing of Senator Frank J. "Pat" Dodd;

NOW, THEREFORE, I, CHRIS CHRISTIE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The Flag of the United States of America and the flag of the State of New Jersey shall be flown at half-staff at all State departments, offices, agencies, and instrumentalities during appropriate hours on Monday, May 24, 2010, in recognition and mourning of the passing of Senator Dodd.

2. This Order shall take effect immediately.

Dated May, 21, 2010.

EXECUTIVE ORDER NO. 29

WHEREAS, United States Army Colonel John M. McHugh, born in West Caldwell, New Jersey, graduated from James Caldwell High School in 1982; and

WHEREAS, Colonel McHugh was a member of the graduating class of 1986, United States Military Academy at West Point;

WHEREAS, Colonel McHugh began his military career by attending the United States Army Aviation School at Fort Rucker, Alabama, where he graduated as a UH60 Blackhawk Helicopter pilot; and

WHEREAS, Colonel McHugh has received some of our nation's highest military honors, including the Legion of Merit Award, the Purple Heart, and two Bronze Stars; and

WHEREAS, Colonel McHugh was an ambitious and courageous man who loved his country and the military; and

WHEREAS, Colonel McHugh tragically lost his life in Kabul, Afghanistan when enemy forces attacked his convoy; and

WHEREAS, Colonel McHugh was a dedicated soldier as well as a loving son, husband, father, and grandfather whose memory lives in the hearts of his family, friends, and fellow soldiers; and

WHEREAS, Colonel McHugh's patriotism and dedicated service to his country and his fellow soldiers make it appropriate and fitting for the State of New Jersey to remember him and his family, to mark his passing, and to honor his memory;

NOW, THEREFORE, I, CHRIS CHRISTIE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of New Jersey shall be flown at half-staff at all State departments, offices, agencies, and instrumentalities during appropriate hours on Tuesday, June 1, 2010, in recognition and mourning of a brave and loyal American hero, United States Army Colonel John M. McHugh.

2. This Order shall take effect immediately.

Dated May 26, 2010.

EXECUTIVE ORDER NO. 30

WHEREAS, Marc K. Castellano, joined the New Jersey State Police as a graduate of the 136th Class of the New Jersey State Police Academy on September 24, 2004, and was a member of Troop "C" Tactical Patrol Unit; and

WHEREAS, Trooper Castellano graduated from Jackson Memorial High School in 1998, then earned an Associate Degree from Ocean County College in 2000, a Bachelor of Science Degree from Rutgers University in 2003, and a Masters Degree from Fairleigh Dickinson University in 2010; and

WHEREAS, Trooper Castellano served with exceptional courage, professionalism, and commitment to the finest ideals and traditions of the New Jersey State Police; and

WHEREAS, Trooper Castellano served proudly as part of the finest State Police force in the Nation; and

WHEREAS, Trooper Castellano was a loving husband, father, son and brother, whose memory lives in the hearts of his family, friends, fellow members of the New Jersey State Police and all law enforcement officers; and

WHEREAS, Trooper Castellano has made the ultimate sacrifice, giving his life in the line of duty while protecting the citizens of the State of New Jersey and, therefore, it is appropriate and fitting for the State of New Jersey to mark his passing and to honor his memory; and

WHEREAS, It is with deep sadness that we mourn the loss of Trooper Castellano, and extend our sincere sympathy to his wife, children, family, friends and fellow members of the New Jersey State Police;

NOW, THEREFORE, I, CHRIS CHRISTIE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of the State of New Jersey shall be flown at half-staff at all State departments, offices, agencies, and instrumentalities during appropriate hours for one week, commencing Tuesday, June 8, 2010, in recognition and mourning of a brave and loyal hero, New Jersey State Trooper Marc K. Castellano, Badge 6397.
2. This Order shall take effect immediately.

Dated June 7, 2010.

EXECUTIVE ORDER NO. 31

WHEREAS, United States Army Specialist Stanley J. Sokolowski, III graduated from Ocean Township High School in 2002; and

WHEREAS, Specialist Sokolowski spent much of his time volunteering at fire companies and first aid squads throughout his community;

WHEREAS, Specialist Sokolowski was assigned to Special Troops Battalion, 1st Brigade, 1st Armored Division, Fort Bliss, Texas; and

WHEREAS, Specialist Sokolowski was an ambitious and courageous man who loved his country and the military; and

WHEREAS, Specialist Sokolowski died in Kirkuk, Iraq, during a time of war while serving as a member of the United States Army; and

WHEREAS, Specialist Sokolowski was a dedicated soldier as well as a loving son and brother whose memory lives in the hearts of his family, friends, and fellow soldiers; and

WHEREAS, Specialist Sokolowski's patriotism and dedicated service to his country and his fellow soldiers make it appropriate and fitting for the State of New Jersey to remember him and his family, to mark his passing, and to honor his memory;

NOW, THEREFORE, I, CHRIS CHRISTIE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of New Jersey shall be flown at half-staff at all State departments, offices, agencies, and instrumentalities during appropriate hours on Wednesday, June 16, 2010, in recognition and mourning of a brave and loyal American hero, United States Army Specialist Stanley J. Sokolowski, III.

2. This Order shall take effect immediately.

Dated June, 7, 2010.

EXECUTIVE ORDER NO. 32

WHEREAS, The Governor has the constitutional responsibility to nominate judges subject to the advice and consent of the Senate; and

WHEREAS, Executive Order No. 36 (2006) formalized a long standing practice whereby the Governor seeks the independent and objective counsel of a group of former jurists and legal practitioners regarding the suitability of candidates under consideration for judicial appointment through the establishment of a Judicial Advisory Panel (sometimes referred to herein as "the Panel"); and

WHEREAS, The Governor places a high value on the input of the Judicial Advisory Panel in connection with his consideration of candidates for judicial appointments; and

WHEREAS, The Governor will continue to utilize the Judicial Advisory Panel as a component of his review process as he exercises his constitutional authority to nominate individuals to serve as judges;

NOW, THEREFORE, I, CHRIS CHRISTIE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. Executive Order No. 36 (2006) sets forth the purpose and role that the Judicial Advisory Panel shall have in the Governor's process of evaluating judicial appointment candidates. Except as expressly modified herein, the Judicial Advisory Panel's work shall continue in accordance with the terms established by Executive Order 36 (2006) and long standing tradition.

2. Paragraph 8 of Executive Order No. 36 (2006), which sets forth the composition of the Judicial Advisory Panel, shall be superseded by this paragraph. The Judicial Advisory Panel will be comprised of seven (7) members. The Panel shall include no fewer than three (3) former judges. The Panel may include practicing attorneys who shall not otherwise serve concurrently as a member of the New Jersey State Bar Association's Judicial and Prosecutorial Appointments Committee. The Governor shall designate the Chair, who shall be responsible for the overall administration of the Panel's responsibilities and establishing its procedures for candidate evaluation.

3. All other provisions of Executive Order No. 36 (2006) not expressly modified herein shall remain in full force and effect.

4. This Order shall take effect immediately.

Dated June 9, 2010.

EXECUTIVE ORDER NO. 33

WHEREAS, There are currently twenty-one county prosecutor's offices in the State of New Jersey, each serving its specific county with its own dedicated offices and support infrastructure; and

WHEREAS, Declining revenues at the state and local levels have exacerbated the burden on county governments to provide for the funding of these offices; and

WHEREAS, Because of the separate structure and administration of the county prosecutor's offices under the current system, potential redundancies may exist in purchasing, administration positions, and special service units, and significant discrepancies may exist concerning caseloads and salaries paid to employees among the different county prosecutor's offices, leading to further inefficiency in the use of limited available resources; and

WHEREAS, As Governor, I have the responsibility and the authority to ensure that State government and its various agencies and instrumentalities operate as efficiently and as effectively as possible; and

WHEREAS, Consistent with that responsibility, it is appropriate to conduct a review of the current system governing the county prosecutor's offices to determine whether efficiencies, cost savings and a more equitable allocation of resources can be achieved;

NOW, THEREFORE, I, CHRIS CHRISTIE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. There is hereby created a County Prosecutor Study Commission ("Study Commission"). The Study Commission shall consist of thirteen (13) members as set forth in this paragraph. The Governor hereby appoints the Attorney General to serve as the chairperson of the Study Commission. The Governor shall select the other twelve (12) members of the Study Commission, which shall be comprised of members of the law enforcement community, including but not limited to current or former county prosecutors and attorneys general; current or former county executives, freeholders or administrators; and the Treasurer or his designee. All members of the Study Commission shall serve without compensation.

2. The Study Commission shall be responsible for evaluating the current structure of the county prosecutor's offices; determining the feasibility of the State taking over all or a portion of the county prosecutor's offices; and other potential alternatives to address concerns about redundancies, inefficiencies, and inequities which may exist in the current system. In making its recommendations, the Study Commission shall carefully consider the State's short-term and long-term economic interests. The Study Commission's charge shall include, but not be limited to, making findings and providing recommendations to the Governor regarding:

a. The viability of a total or partial State takeover of the county prosecutor's offices;

b. Potential areas of waste, redundancy and inefficiency in the county prosecutor's offices;

c. Alternatives to a State takeover that can achieve cost savings and efficiencies, including but not limited to regional consolidation and shared services;

d. Current funding of county prosecutor's offices and whether the current funding mechanisms are appropriate, including but not limited to the viability of the County Prosecutor Funding Initiative Pilot Program; and

e. Such other matters as may be referred to the Study Commission by the Governor.

3. The Department of Law and Public Safety shall provide staff support to the Study Commission. The Study Commission shall be authorized to call upon any department, office, division, or agency of this State to supply it with any information, personnel, or other assistance the Study Commission deems necessary to discharge its duties under this Order. Each department, office, division, and agency of this State is hereby required, to the extent not inconsistent with law, to cooperate fully with the Study Commission within the limits of its statutory authority and to furnish the Study Commission with such assistance on as timely a basis as is necessary to accomplish the purposes of this Order.

4. The Study Commission may consult with experts or other knowledgeable individuals in the public or private sector on any aspect of its mission, including but not limited to individuals who were involved in the State's assumption of the costs

and administration of the judicial system, including but not limited to the development and implementation of the State Judicial Unification Act and the Judicial Employees Unification Act.

5. The Study Commission may report to the Governor from time to time and shall issue a final report to the Governor setting forth its recommendations pursuant to this Order no later December 15, 2010. The final report of the Study Commission shall be provided to the Legislature and shall be made available to the public. The Study Commission shall expire immediately upon issuance of its final report

6. This Order shall take effect immediately.

Dated July 16, 2010.

EXECUTIVE ORDER NO. 34

WHEREAS, On February 3, 2010, I signed Executive Order No. 11 (2010) establishing a New Jersey Gaming, Sports and Entertainment Advisory Commission, hereinafter referred to as the Commission, for the purpose of developing recommendations to implement a comprehensive, statewide approach concerning the issues and financial needs of the State's gaming, professional sports, and entertainment industries; and

WHEREAS, The Commission has diligently performed its assigned functions, focusing on its important mission and delivering its report and recommendations for my consideration; and

WHEREAS, Ensuring the health and viability of New Jersey's gaming, sports and entertainment sectors remains crucial to the State's economy and to enhancing the way of life of our citizens; and

WHEREAS, In light of the complexity of the issues considered by the Commission, the expertise possessed by the Commission, and the importance of its recommendations to the well-being of the State of New Jersey, it is appropriate for the Commission to remain in existence for an additional period of time to support implementation of those recommendations that I accept and any related matters;

NOW, THEREFORE, I, CHRIS CHRISTIE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. Paragraph 6 of Executive Order No. 11 (2010) is amended to provide that the Commission shall not expire upon the issuance of its final report, but rather shall continue in existence until June 30, 2011, or such other date as I shall establish, in order to support the implementation of those recommendations of the Commission, and any related matters, that meet with my approval.

2. This Order shall take effect immediately.

Dated July 21, 2010.

EXECUTIVE ORDER NO. 35

WHEREAS, United States Marine Major James M. Weis was raised in Toms River, New Jersey and graduated from Rutgers University; and

WHEREAS, Major Weis joined the Marines in 1994 and was commissioned on March 23, 1996; and

WHEREAS, Major Weis was assigned to Marine Aircraft Group 39, 3rd Marine Aircraft Wing, I Marine Expeditionary Force, based out of Camp Pendleton, California; and

WHEREAS, Major Weis has received some of our nation's highest military honors, including a Meritorious Service Medal, two Air Medals for Individual Action, an Air Medal-Strike Flight, Navy and Marine Corps Commendation Medal, two Navy and Marine Corps Achievement Medals, and a Combat Action Ribbon; and

WHEREAS, Major Weis was an ambitious and courageous man who loved his country and the military; and

WHEREAS, Major Weis tragically lost his life while heroically and selflessly serving his country in Helmand Province, Afghanistan; and

WHEREAS, Major Weis was a dedicated soldier as well as a loving son, husband, and father, whose memory lives in the hearts of his family, friends, and fellow Marines; and

WHEREAS, Major Weis's patriotism and dedicated service to his country and his fellow Marines make it appropriate and fitting for the State of New Jersey to remember him and his family, to mark his passing, and to honor his memory;

NOW, THEREFORE, I, CHRIS CHRISTIE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of New Jersey shall be flown at half-staff at all State departments, offices, agencies, and instrumentalities during appropriate hours on Monday, August 2, 2010 in recognition and mourning of a brave and loyal American hero, United States Marine Major James M. Weis.

2. This Order shall take effect immediately.

Dated July 29, 2010.

EXECUTIVE ORDER NO. 36

WHEREAS, United States Army Specialist Carlos Javier Negron Sr., graduated from Manuela Toro High School in Caguas, Puerto Rico in 1988, joined the U.S. Army and served for nine years before being honorably discharged and moving to Lakewood, New Jersey; and

WHEREAS, Specialist Negron returned to the U.S. Army in 2008 and was assigned to the 426th Forward Support Battalion, 1st Brigade Combat Team in Fort Campbell, Kentucky; and

WHEREAS, Specialist Negron and his unit were deployed to Afghanistan for Operation Enduring Freedom in 2010; and

WHEREAS, Specialist Negron has received some of our nation's highest military honors, including the Bronze Star Medal, the Purple Heart, the Army Achievement Medal, the National Defense Service Medal, the Afghanistan Campaign Medal with arrowhead, the Global War on Terrorism Service Medal, the Army Service Ribbon and the NATO Medal; and

WHEREAS, Specialist Negron was an ambitious and courageous man who loved his country and the military; and

WHEREAS, Specialist Negron tragically lost his life while heroically and selflessly serving his country in Konar Province, Afghanistan; and

WHEREAS, Specialist Negron was a dedicated soldier as well as a loving son, husband, and father whose memory lives in the hearts of his family, friends, and fellow soldiers; and

WHEREAS, Specialist Negron's patriotism and dedicated service to his country and his fellow soldiers make it appropriate and fitting for the State of New Jersey to remember him and his family, to mark his passing, and to honor his memory;

NOW, THEREFORE, I, CHRIS CHRISTIE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of New Jersey shall be flown at half-staff at all State departments, offices, agencies, and instrumentalities during appropriate hours on Wednesday, August 25, 2010 in recognition and mourning of a brave and loyal American hero, United States Army Specialist Carlos Javier Negron, Sr.

2. This Order shall take effect immediately.

Dated August 23, 2010.

EXECUTIVE ORDER NO. 37

WHEREAS, United States Army Sergeant Jamal M. Rhett, graduated from Burlington County Institute of Technology in 2003 and attended Bloomfield College before enlisting in the Army; and

WHEREAS, Sergeant Rhett was a combat medic assigned to the 1st Battalion, 21st Infantry Regiment, 2nd Brigade Combat Team, 25th Infantry Division, in Schofield Barracks, Hawaii; and

WHEREAS, Sergeant Rhett and his unit were deployed to Iraq for Operation Enduring Freedom in 2010; and

WHEREAS, Sergeant Rhett has received some of our nation's highest military honors, including a Bronze Star Medal, Purple Heart Medal, Army Good Conduct Medal, National Defense Service Medal, Iraqi Campaign Medal with Bronze Star, Global War on Terrorism Service Medal, Army Service Ribbon, and a Combat Medic Badge; and

WHEREAS, Sergeant Rhett was an ambitious and courageous young man who loved his country and the military; and

WHEREAS, Sergeant Rhett tragically lost his life in Ba Qubah, Iraq during an insurgent attack; and

WHEREAS, Sergeant Rhett was a dedicated soldier as well as a loving son, whose memory lives in the hearts of his family, friends, and fellow soldiers; and

WHEREAS, Sergeant Rhett's patriotism and dedicated service to his country and his fellow soldiers make it appropriate and fitting for the State of New Jersey to remember him and his family, to mark his passing, and to honor his memory;

NOW, THEREFORE, I, CHRIS CHRISTIE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of New Jersey shall be flown at half-staff at all State departments, offices, agencies, and instrumentalities during appropriate hours on Friday, September 3, 2010 in recognition and mourning of a brave and loyal American hero, United States Army Sergeant Jamal M. Rhett.

2. This Order shall take effect immediately.

Dated September 1, 2010.

EXECUTIVE ORDER NO. 38

WHEREAS, United States Army Specialist Pedro A. Millet Meletiche, graduated from Thomas A. Edison Career and Technical Academy, a campus of Elizabeth High School in 2008; and

WHEREAS, Specialist Millet Meletiche was assigned to the 1st Battalion, 66th Armor Regiment, 1st Brigade Combat Team, 4th Infantry Division based in Fort Carson, Colorado; and

WHEREAS, Specialist Millet Meletiche and his unit were deployed to Afghanistan for Operation Enduring Freedom in 2010; and

WHEREAS, Specialist Millet Meletiche has received some of our nation's highest military honors, including a National Defense Service Medal and an Army Service Ribbon; and

WHEREAS, Specialist Millet Meletiche was an ambitious and courageous young man who loved his country and the military; and

WHEREAS, Specialist Millet Meletiche tragically lost his life in Arghandab River Valley, Afghanistan during an insurgent attack; and

WHEREAS, Specialist Millet Meletiche was a dedicated soldier as well as a loving son and brother, whose memory lives in the hearts of his family, friends, and fellow soldiers; and

WHEREAS, Specialist Millet Meletiche's patriotism and dedicated service to his country and his fellow soldiers make it appropriate and fitting for the State of New Jersey to remember him and his family, to mark his passing, and to honor his memory;

NOW, THEREFORE, I, CHRIS CHRISTIE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of New Jersey shall be flown at half-staff at all State departments, offices, agencies, and instrumentalities during appropriate hours on Tuesday, September 7, 2010 in recognition and mourning of a brave and loyal American hero, United States Army Specialist Pedro A. Millet Meletiche.

2. This Order shall take effect immediately.

Dated September 1, 2010.

EXECUTIVE ORDER NO. 39

WHEREAS, On September 11, 2001, unprecedented terrorist attacks were launched on New York, Washington and Pennsylvania; and

WHEREAS, More than one quarter of the victims of the September 11, 2001 attacks were New Jerseyans, with nearly seven hundred of our residents killed in the attacks; and

WHEREAS, Many New Jerseyans, including thousands of police, fire, military, emergency and construction personnel responded to this tragedy; and

WHEREAS, Hundreds of New Jersey families have been drastically affected, through the loss of a parent, spouse, child or other loved one; and

WHEREAS, This tragic event will be remembered by all New Jerseyans, both privately as well as in public remembrances and memorial ceremonies; and

WHEREAS, It is fitting that this day be observed with full solemnity, in tribute to the thousands of innocent victims who perished in the attacks;

NOW, THEREFORE, I, CHRIS CHRISTIE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of the State of New Jersey shall be flown at half-staff at all State departments, offices, agencies, instrumentalities and all public buildings during appropriate hours on September 11, 2010 in recognition and mourning of all of those lost in the September 11th attacks, and particularly, those lost from our home State.

2. This Order shall take effect immediately.

Dated September 9, 2010.

EXECUTIVE ORDER NO. 40

WHEREAS, It is my responsibility as Governor to supervise the principal departments and agencies comprising the Executive Branch of State Government, to monitor their effectiveness on an ongoing basis, and to streamline their structure whenever possible to improve efficiency and performance; and

WHEREAS, Taxpayers in the State of New Jersey currently support, directly and indirectly, the operations of numerous independent State boards, commissions, authorities, agencies, and other government instrumentalities (hereinafter referred to as "State Authorities"); and

WHEREAS, In recognition of the foregoing, earlier this year I issued Executive Order No. 15 (2010), paragraph 8 of which ordered the commissioners or heads of each principal department in the Executive Branch to identify the State Authorities established in or allocated to such department and to provide a recommendation to the Governor's Office regarding whether each such State Authority should continue to exist or be eliminated; and

WHEREAS, After a thorough review of those departmental recommendations, it has been determined that many State Authorities are functionally inactive, expired, or defunct, but nevertheless remain on the State records; and

WHEREAS, It also has been determined that other State Authorities are duplicative, ineffective, unnecessary, or otherwise have outlived their usefulness for achieving their original goals; and

WHEREAS, While many such inactive, expired, defunct, and/or unnecessary State Authorities were established by statute and therefore are not subject to unilateral repeal by the Governor, but rather require legislative action, a number of State Authorities were originally created or authorized by Executive Orders; and

WHEREAS, My administration is committed to undertaking a thorough, ongoing study of the current structure and operations of the Executive Branch of State Government and to work with the Legislature to enact appropriate legislation to repeal statutory authorization for unnecessary, duplicative, outdated, and/or defunct State Authorities; and

WHEREAS, It is appropriate for me to take executive action to rescind the portions of prior Executive Orders that originally authorized the establishment of certain

State Authorities, which have been identified and recommended as appropriate for elimination; and

WHEREAS, Many past Executive Orders expressly state or otherwise imply that the State Authorities created thereunder would automatically terminate following the issuance of an assigned report, study, or some similar work product, but others do not address these issues at all, potentially causing confusion or misunderstanding as to the continuing legal status of these entities, and it is therefore desirable to establish clearly and definitively the termination of executive authorization for certain State Authorities identified as appropriate for abolition;

NOW, THEREFORE, I, CHRIS CHRISTIE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. (a). The following State Authorities, insofar as they were established under the authority of one or more Executive Orders, are hereby terminated and abolished and those Executive Orders, or parts thereof that authorized their creation and existence, are hereby rescinded:

(1) the 225th Anniversary of the American Revolution Celebration Commission established pursuant to, inter alia, Executive Order No. 116 (2000);

(2) the Advisory Committee on the Preservation and Use of Ellis Island established pursuant to, inter alia, Executive Orders No. 82 and No. 93 (1998);

(3) the Advisory Committee to Study the Future of the New Jersey Training School for Boys in Monroe Township established pursuant to, inter alia, Executive Order No. 75 (1997);

(4) the Advisory Council on Juvenile Justice established pursuant to, inter alia, Executive Order No. 10 (1994);

(5) the Advisory Council to Promote the Profession of Nursing in New Jersey established pursuant to, inter alia, Executive Orders No. 139 (2002), and Nos. 141 and 142 (2002);

(6) the Advisory Panel on Higher Education Restructuring established pursuant to, inter alia, Executive Order No. 14 (1994);

(7) the Advisory Panel on School Vouchers established pursuant to, inter alia, Executive Order No. 30 (1995);

(8) the New Jersey Character Education Commission established pursuant to, inter alia, Executive Order No. 9 (2002);

(9) the Benefits Review Task Force established pursuant to, inter alia, Executive Order No. 39 (2005);

(10) the Billboard Policy Procedure and Review Task Force established pursuant to, inter alia, Executive Order No. 59 (2003);

(11) the Blue Ribbon Panel on the Development of Wind Turbine Facilities in Coastal Waters established pursuant to, inter alia, Executive Order No. 12 (2004);

(12) the Budget Efficiency Savings Team Commission established pursuant to, inter alia, Executive Order No. 2 (2002);

(13) the Commission on Rationalizing New Jersey's Health Care Resources established pursuant to, inter alia, Executive Order No. 39 (2006);

(14) the Construction Trade Training Council established pursuant to, inter alia, Executive Order No. 123 (2001);

(15) the Defense Conversion and Community Assistance Commission established pursuant to, inter alia, Executive Order No. 87 (1993);

(16) the Deferred Balance Task Force – Board of Directors established pursuant to, inter alia, Executive Order No. 25 (2002);

(17) the Delaware Bay Weakfish Action Commission established pursuant to, inter alia, Executive Order No. 20 (1990);

(18) the Ellis Island New Jersey Restoration Advisory Committee established pursuant to, inter alia, Executive Order No. 111 (2000);

(19) the Election Advisory Council established pursuant to, inter alia, Executive Order No. 143 (1986);

(20) the Fix DMV Commission established pursuant to, inter alia, Executive Order No. 19 (2002);

(21) the Governor's Youth Advisory Council established pursuant to, inter alia, Executive Orders No. 34 (1995), 79 (1998), and 107 (1999);

(22) the Task Force for Farmland Assessment Program established pursuant to, inter alia, Executive Order No. 109 (1993);

(23) the Renewable Energy Task Force established pursuant to, inter alia, Executive Order No. 45 (2003);

(24) the Governor's Cabinet for Children established pursuant to, inter alia, Executive Orders No. 60 and No. 83 (2003);

(25) the Governor's Commission on Eastern European History established pursuant to, inter alia, Executive Order No. 41 (1991);

(26) the Education Mandate Review Study Commission established pursuant to, inter alia, Executive Order No. 75 (2003);

(27) the Governor's Commission to Support and Enhance New Jersey's Military and Coast Guard Installations established pursuant to, inter alia, Executive Order No. 106 (2004);

(28) the Governor's Committee on Children's Services Planning established pursuant to, inter alia, Executive Order No. 102 (1993);

(29) the Governor's Committee on Welfare Reform established pursuant to, inter alia, Executive Order No. 101 (1993);

(30) the Governor's Council on New Jersey Outdoors established pursuant to, inter alia, Executive Orders No. 138 (1986), No. 196 (1988), and No. 40 (1995);

(31) the Governor's Hispanic Advisory Council for Policy Development established pursuant to, inter alia, Executive Order No. 17 (2002);

(32) the Governor's School Board of Overseers established pursuant to, inter alia, Executive Orders No. 42 (1991) and No. 129 (1986);

(33) the Blue Ribbon Transportation Committee established pursuant to, inter alia, Executive Order No. 43 (2003);

(34) the Governor's Study Group on the Bicentennial of the Polish Constitution, Executive Order No. 31 (1991);

(35) the Governor's Task Force on Mental Health established pursuant to, inter alia, Executive Order No. 1 (2004);

(36) the Governor's Task Force on Public Health Emergency Planning established pursuant to, inter alia, Executive Order No. 140 (2002);

(37) the Governor's Task Force on Steroid Use and Prevention established pursuant to, inter alia, Executive Order No. 46 (2005);

(38) the Study Commission on Parole established pursuant to, inter alia, Executive Order No. 39 (1995);

(39) the Governor's Teacher Advisory Committee established pursuant to, inter alia, Executive Order No. 13 (2002);

(40) the Hudson River Waterfront Development Committee established pursuant to, inter alia, Executive Orders No. 53 (1983), No. 152 (1986), and No. 32 (1991);

(41) the Invasive Species Council established pursuant to, inter alia, Executive Order No. 97 (2004);

(42) the Lake Restoration & Management Advisory Task Force established pursuant to, inter alia, Executive Order No. 115 (2000);

(43) the Landlord-Tenant Task Force established pursuant to, inter alia, Executive Orders No. 81 and No. 86 (1998);

(44) the Legalized Gaming Policy Study Commission established pursuant to, inter alia, Executive Order No. 83 (1993);

(45) the Liberty State Park Public Advisory Commission established pursuant to, inter alia, Executive Orders No. 74 (1979), No. 75 (1984), and No. 163 (1987);

(46) the New Jersey Abraham Lincoln Bicentennial Commission established pursuant to, inter alia, Executive Order No. 125 (2008);

(47) the New Jersey Advanced Technology Vehicle Task Force established pursuant to, inter alia, Executive Order No. 4 (1999);

(48) the New Jersey Council on Access and Mobility established pursuant to, inter alia, Executive Order No. 87 (2007);

(49) the New Jersey Council on Job Opportunities established pursuant to, inter alia, Executive Order No. 54 (1992);

(50) the New Jersey Fisheries Development Commission established pursuant to, inter alia, Executive Order No. 75 (1984);

(51) the Video Lottery Study Commission established pursuant to, inter alia, Executive Order No. 46 (2003);

(52) the Task Force for the Review of the Treatment of the Criminally Insane established pursuant to, inter alia, Executive Order No. 58 (1996);

(53) the New Jersey Character Education Commission established pursuant to, inter alia, Executive Order No. 9 (2002);

(54) the Governor's Asian American Commission established pursuant to, inter alia, Executive Order No. 39 (2002);

(55) the Task Force on the Affordability and Accessibility of Health Care in New Jersey established pursuant to, inter alia, Executive Order No. 97 (1999);

(56) the State Council on Vocational Education established pursuant to, inter alia, Executive Order No. 28 (1991);

(57) the Study Commission on New Jersey's Non-Public Schools established pursuant to, inter alia, Executive Order No. 161 (2009);

(58) the New Jersey Geographic Information Council established pursuant to, inter alia, Executive Order No. 122 (2001);

(59) the Citizen's Committee on Permit Coordination established pursuant to, inter alia, Executive Orders No. 57 (1977) and No. 100 (1985); and

(60) the Toll Road Consolidation Commission established pursuant to, inter alia, Executive Order No. 15 (2002).

(b). All State records shall be amended to reflect the abolition of these State Authorities.

2. Except as otherwise specifically provided herein, nothing in this Order shall be construed to affect or rescind any portion of any Executive Order that does not authorize the creation or existence of a State Authority. Moreover, nothing in this Order is intended or shall be construed to affect any entity whose existence has been codified by statute.

3. This Order shall take effect immediately.

Dated September 9, 2010.

EXECUTIVE ORDER NO. 41

WHEREAS, Executive Order No. 3 (2010) created a Red Tape Review Group ("Review Group") to review pending and proposed rules, regulations, prior Executive Orders, and processes that are, or may be, unduly burdensome to the State's economy; and

WHEREAS, In furtherance of the Governor's Order, the Review Group studied hundreds of pages of proposed regulations and rules, and met publicly with stakeholders throughout the State regarding ways to improve New Jersey's regulatory system; and

WHEREAS, On April 19, 2010, after conducting a comprehensive review of all pending and proposed rules, regulations, and prior Executive Orders, the bipartisan Review Group completed its work and submitted its findings and recommendations to the Governor (the "Findings"); and

WHEREAS, The Findings recommended a series of executive policy changes and legislative proposals designed to improve administrative rulemaking by State agencies; and

WHEREAS, As part of Governor Christie's commitment to constantly improve the regulatory environment in this State, it is appropriate for a new Red Tape Review Commission ("Review Commission") to be formed in order to provide on-

going advice to the Governor on rules, regulations, Executive Orders, and other administrative processes that could hamper economic development in New Jersey; and

WHEREAS, Governor Christie recently took executive action to abolish several dozen boards, commissions, task forces, and other entities that were established to study important policies and to issue recommendations to the Governor, but which continued to exist following the completion of their assigned tasks, it is appropriate that the new Review Commission be subject to reauthorization after three (3) years to determine whether it remains necessary, or whether it should expire at that time and thereby not endure as an ongoing part of State Government;

NOW, THEREFORE, I, KIM GUADAGNO, Acting Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. A Red Tape Review Commission ("Review Commission") is hereby established. The Department of State shall provide support to the Review Commission from existing staff and resources.

2. The Review Commission's membership shall consist of up to nine (9) members to be appointed by the Governor. The members of the Review Commission shall serve without compensation and at the pleasure of the Governor.

3. The following officials shall serve on the Review Commission, ex officio:

a. The Lieutenant Governor, or her designee; and

b. Four (4) members from the New Jersey State Legislature consisting of two (2) members from the New Jersey Senate and two (2) members from the New Jersey General Assembly, with no more than two (2) of the Legislators from the same political party as the Governor.

4. The Review Commission shall also include up to four (4) public members with experience and expertise in the regulatory process.

5. Any vacancy occurring in the membership of the Review Commission shall be filled in the same manner as an original appointment and the vacancy is not to affect the power of the remaining members to execute the duties of the Review Commission. The Review Commission shall organize as soon as practicable after the appointment of its members.

6. The Lieutenant Governor, or her designee, shall serve as Chair of the Review Commission. The Review Commission shall have the discretion to make internal rules of procedure regarding the Review Commission's governance and operations, including the number of members sufficient to vote for its recommendations and the form of its reports.

7. The Review Commission shall:

a. review existing administrative rules and regulations to analyze their impact on job creation, economic growth, and investment in New Jersey;

b. solicit both written and oral comments from the public;

c. conduct at least three (3) public hearings each year, one each in the Southern, Central, and Northern regions of the State;

d. issue periodic written reports to the Governor, making detailed findings and recommendations that include an analysis of the following issues, among others: existing rules, regulations and legislation that are burdensome to the State's economy; ways to improve the regulatory processes of State government; and on other areas relevant to administrative procedural reforms. These reports shall also be posted on the New Jersey Department of State's web page.

8. The Review Commission is authorized to call upon any department, office, division, or agency of this State to supply it with information and assistance as the Review Commission deems necessary to discharge its duties under this Order. Each department, office, division, or agency of this State is hereby required, to the extent not inconsistent with law, to cooperate fully with the Review Commission within the limits of its statutory authority and to furnish the Review Commission with such assistance on as timely a basis as is necessary to accomplish the purpose of this Order. The Review Commission is authorized to consult with experts or other knowledgeable or interested individuals in the public or private sector on any aspect of its mission.

9. This Order is not intended to, and shall not, confer any legal rights upon any persons or entities regulated by any agency of the New Jersey State Government, and it shall not be construed or in any way cited or used in support of or as a basis for any legal challenge, including, but not limited to, challenges to statutes, regulations, or other actions or to any inaction of any governmental entity subject to this Order.

10. Executive Order No. 3 (2010) which created a Red Tape Review Group is hereby rescinded.

11. This Order shall take effect immediately and shall expire on December 31, 2013.

Dated September 23, 2010.

EXECUTIVE ORDER NO. 42

WHEREAS, The State of New Jersey ("State") is committed to improving the quality of education for all New Jersey children; and

WHEREAS, Research has consistently shown that the single most important factor in a student's educational attainment is the quality of his or her teacher and school leader; and

WHEREAS, While there are many outstanding, hard-working and effective teachers and school leaders throughout the State, there are many who do not meet the same standards of excellence, and the current method for evaluating teacher and school leader performance has proven to be both inadequate and ineffective; and

WHEREAS, The lack of a more precise framework in which to properly and fully assess teacher and leader quality has resulted in an inability to effectively improve teacher and leader performance, reward excellence, or provide real accountability; and

WHEREAS, This Administration firmly believes that improving the methods of assessing the teachers and school leaders in this State will better equip school districts to improve their performance and, ultimately, the educational success of New Jersey students; and

WHEREAS, With a new statewide evaluation system, New Jersey will also be able to better address and improve school personnel policies concerning professional development, promotion, compensation, merit-based bonuses, tenure, and reductions in force and separations; and

WHEREAS, In order to improve the State's method of assessing its teachers and school leaders, and ensure that they are effectively educating our children, a Task Force composed of a broad range of education practitioners and experts should be established to explore evaluation models and recommend a statewide evaluation system that will inform decisions about various school personnel policies, including professional development, promotion, compensation, merit-based bonuses, tenure, and reductions in force and separations.

NOW, THEREFORE, I, CHRIS CHRISTIE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. There is hereby created a New Jersey Educator Effectiveness Task Force for School and District-level education professionals, hereinafter referred to as the "Task Force."

2. The Task Force shall consist of up to nine (9) members appointed by the Governor who shall serve at his pleasure. The Governor shall select a chairperson from among the members of the Task Force. The Task Force shall consist of individuals who have practical experience, knowledge or expertise in the areas of education policy or administration. All members of the Task Force shall serve without compensation. The Task Force shall organize as soon as practicable after the appointment of its members.

3. The Task Force is charged with presenting recommendations to the Governor regarding how best to measure the effectiveness of teachers and school leaders, based on defined parameters. The effectiveness recommendations must include:

a. identified measures of student achievement - representing at least 50% of the teacher or school leader evaluation - which should be used for evaluating educator performance;

b. demonstrated practices of effective teachers and leaders, which should comprise the remaining basis for such evaluations; and

c. how these measures of effective practices should be weighted.

4. The Department shall provide staff support to the Task Force. The Task Force may consult with education stakeholders, practitioners, experts or other knowledgeable individuals in the public or private sector on any aspect of its mission.

5. The Task Force shall issue an initial report containing its recommended effectiveness evaluation framework to the Governor no later than March 1, 2011. Thereafter, the Task Force will continue to meet as needed to continue to review and revise, if necessary, the recommendations following the receipt of comments from the public, stakeholders and the State Board of Education, pursuant to a schedule to be developed by the Department. The Task Force shall expire upon the Governor's receipt of a report containing their final recommendations pursuant to this Executive Order.

6. The final report of the Task Force shall be provided to the Legislature and shall be made available to the public.

7. This Order shall take effect immediately.

Dated September 28, 2010.

EXECUTIVE ORDER NO. 43

WHEREAS, United States Navy Special Warfare Operator 3rd Class (SEAL) Denis C. Miranda, graduated from Toms River High School East in 2003; and

WHEREAS, Petty Officer Miranda enlisted in the military in September 2003 and became a Navy SEAL in 2007; and

WHEREAS, Petty Officer Miranda attended Hospital Corpsman School, which trains medical caregivers, before entering the Naval Special Warfare Command in Hamptons Road, Virginia; and

WHEREAS, Petty Officer Miranda was assigned to an East Coast-based SEAL Team; and

WHEREAS, Petty Officer Miranda was an ambitious and courageous young man who loved his country and the military; and

WHEREAS, Petty Officer Miranda tragically lost his life in Zabul, Afghanistan, while supporting Operation Enduring Freedom; and

WHEREAS, Petty Officer Miranda was a dedicated soldier as well as a loving son and brother, whose memory lives in the hearts of his family, friends, and fellow soldiers; and

WHEREAS, Petty Officer Miranda's patriotism and dedicated service to his country and his fellow soldiers make it appropriate and fitting for the State of New Jersey to remember him and his family, to mark his passing, and to honor his memory;

NOW, THEREFORE, I, CHRIS CHRISTIE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of New Jersey shall be flown at half-staff at all State departments, offices, agencies, and instrumentalities during appropriate hours on Wednesday, October 6, 2010 in recognition and mourning of a brave and loyal American hero, United States Navy Special Warfare Operator 3rd Class (SEAL) Denis C. Miranda.

2. This Order shall take effect immediately.

Dated October 1, 2010.

EXECUTIVE ORDER NO. 44

WHEREAS, Employees of the State, pursuant to Chapter 303 of the laws of 1968, may establish employee organizations for the purpose of representing their interests in collective negotiations with the State concerning the terms and conditions of their employment; and

WHEREAS, The State has an interest in promoting cooperative relationships between the State and its employees and ensuring the orderly and uninterrupted operation of State government; and

WHEREAS, It is a goal of this Administration that an efficient, effective and good faith process should exist for conducting collective negotiations and resolving disputes between the State and its employees; and

WHEREAS, In order to conduct collective negotiations and resolve disputes between the State and its employees efficiently, effectively and in good faith, it is imperative that the State have a well-coordinated and integrated approach to human resource management; and

WHEREAS, In order to allow the State to reorganize its structure to ensure that labor relations and collective negotiations are conducted efficiently, effectively and in good faith it is necessary to rescind Executive Order No. 21, issued on July 14, 1994, and Executive Order No. 33, issued on March 6, 1995;

NOW, THEREFORE, I, CHRIS CHRISTIE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. Executive Order No. 21 (1994) and Executive Order No. 33 (1995) are hereby rescinded.

2. The Director and Deputy Director of the Governor's Office of Employee Relations shall be appointed by the Governor and shall hold office at the pleasure of the Governor.

3. The Director of the Governor's Office of Employee Relations shall report to the Governor through the Chief Counsel to the Governor.

4. Compensation for employees of the Office of Employee Relations shall be consistent with guidelines or regulations established by the Civil Service Commission.

5. The responsibilities of the Office of Employee Relations shall include, but not be limited to, the negotiation, administration and interpretation of collective negotiations agreements, and the management of disputes arising under collective negotiations agreements.

6. The Director of the Governor's Office of Employee Relations shall act as the Governor's agent in conducting collective negotiations with employee organizations and in appearing before the New Jersey Public Employment Relations Commission and any other court, board, commission or agency in matters regarding employee relations. The Director shall have such other and further powers and duties as may from time to time be conferred upon the Director by the Governor.

7. The Office of Employee Relations is authorized to call upon any department, office, division or agency of the State to supply such statistical data, program reports and other information or personnel and materials as it deems necessary to discharge its responsibilities under this Order. Each department, office, division or agency of the State is authorized and directed, to the extent not inconsistent with law, to cooperate with the Office of Employee Relations and to furnish such information and assistance.

8. Pursuant to N.J.S.A. 52:17A-4 and 12, attorneys assigned by the Attorney General shall appear as the representative for the Office of Employee Relations before the New Jersey Public Employment Relations Commission and any other board, commission, court or agency in matters involving labor relations. Pursuant to N.J.S.A. 52:17A-13, the Office of Employee Relations is authorized to retain special labor counsel as deemed necessary to fulfill its mandate pursuant to this Order.

9. The Department of the Treasury shall continue to provide assistance to the Office of Employee Relations in meeting its administrative and personnel needs. The Treasurer shall continue to serve as the request officer for the Office.

10. This Order shall take effect immediately.

Dated October 8, 2010.

EXECUTIVE ORDER NO. 45

WHEREAS, W. Cary Edwards was an exceptional man with a tremendous capacity for life and people, a true leader, a fearless and accomplished attorney, trusted counselor, distinguished public servant, professor, mentor, and role model, as well as director of governmental, professional, and civic organizations, and a man deeply dedicated to his family and to serving others from all stations in life; and

WHEREAS, Mr. Edwards was born in Paterson and raised in Fair Lawn, New Jersey where his mother, Virginia Edwards, once served as mayor; and

WHEREAS, Mr. Edwards obtained his bachelor's degree in 1967 from Seton Hall University, graduated from the Seton Hall University School of Law in 1970 and was admitted to the New Jersey bar the same year; and

WHEREAS, Mr. Edwards was the organizer and first chairman of the Seton Hall Law School government body, president of the Seton Hall chapter of the National Legal Fraternity, and served as an adjunct professor, assistant dean of students, and course author at Seton Hall until 1971; and

WHEREAS, Mr. Edwards began his remarkable career of public service as an elected councilman and later as council president in Oakland, New Jersey in 1975; and

WHEREAS, Beginning in 1977 he was elected to the New Jersey General Assembly in three elections, garnering in his last race the highest vote total ever recorded in an Assembly race, and was chosen to serve as assistant minority leader; and

WHEREAS, In 1982, Mr. Edwards resigned from the Legislature when Governor Thomas H. Kean selected him to serve as Chief Counsel to the Governor, a position that he held with distinction for four years while supervising a staff of thirty five attorneys and providing advice to the Governor on all aspects of Executive Branch responsibilities, including legislative and policy initiatives, preparation of the annual State budget, and oversight of the independent State authorities; and

WHEREAS, In 1986, Mr. Edwards was nominated by Governor Kean and confirmed by the Senate to be Attorney General of the State of New Jersey, where he served with distinction as the State's chief law enforcement officer until 1989; and

WHEREAS, As Attorney General, Mr. Edwards worked closely with State, county, and federal law enforcement to develop and implement novel, community- and school-based strategies to address the demand for illegal drugs, while vigorously targeting drug traffickers; and

WHEREAS, Attorney General Edwards also reformed and revamped the State's antiquated motor vehicle system; and

WHEREAS, Attorney General Edwards also helped to develop, implement, and defend groundbreaking environmental legislation and pursued important legislative and administrative reforms to the State's law enforcement and criminal justice system; and

WHEREAS, In addition to his many accomplishments as a public servant, Mr. Edwards was a well-respected attorney in private practice, a life member of the Board of Trustees of Monmouth University, lead director of the Board of Directors of South Jersey Industries, a charter member of the board of New Jersey Future, a visiting associate and former adjunct professor at Seton Hall University and the Eagleton Institute of Government, Public Policy and Politics, and a member of numerous other community and volunteer organizations, as well as a candidate for Governor and the recipient of numerous honorary Doctor of Laws degrees and over 150 public and private service awards; and

WHEREAS, In 1997, Governor Christine T. Whitman appointed Mr. Edwards to be a commissioner of the State Commission of Investigation ("SCI"), an independent fact-finding agency whose mission is to expose organized crime, public

corruption, and waste and to recommend reforms for the benefit of New Jersey residents; and

WHEREAS, In 2004, Mr. Edwards was named chairman of the SCI by Acting Governor Richard J. Codey, and he tirelessly and ably served in that capacity as a proponent of good government since that time; and

WHEREAS, It is rare in public life to encounter a man of such achievement, talent, good humor, and passion who is respected by all, regardless of partisan identity; and

WHEREAS, Mr. Edwards' extraordinary life and accomplishments were characterized by integrity, candor, humility, bravery, and a sincere belief that government exists to serve the people; and

WHEREAS, Mr. Edwards' courage and dignity are an enduring example for all who aspire to public service; and

WHEREAS, Throughout his distinguished career, Mr. Edwards demonstrated an abiding love for and commitment to his family, particularly his wife of 41 years, Lynn, and their two daughters and five grandchildren; and

WHEREAS, It is with deep sadness that we mourn the loss of Mr. Edwards and extend our sincere sympathy to his family, his many friends and admirers, and his respectful colleagues; and

WHEREAS, It is fitting and appropriate to honor the memory and mourn the passing of Mr. Edwards;

NOW, THEREFORE, I, CHRIS CHRISTIE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of New Jersey shall be flown at half-staff at all State departments, offices, agencies, and instrumentalities during appropriate hours on Tuesday, October 26, 2010 in recognition and mourning of the passing of W. Cary Edwards.

2. This Order shall take effect immediately.

Dated October 22, 2010.

EXECUTIVE ORDER NO. 46

WHEREAS, United States Marine Lance Corporal Francisco R. Jackson was born in the Dominican Republic and raised in Elizabeth, New Jersey; and

WHEREAS, Lance Corporal Jackson was assigned to the 1st Battalion, 11th Marine Regiment, 1st Marine Division, I Marine Expeditionary Force, Camp Pendleton, California; and

WHEREAS, Lance Corporal Jackson has received some of our nation's highest military honors, including the Purple Heart, Combat Action Ribbon, National

Defense Service Medal, Global War on Terrorism Service Medal, Sea Service Deployment Ribbon and Afghanistan Campaign Medal; and

WHEREAS, Lance Corporal Jackson was an ambitious and courageous young man who loved his country and the military; and

WHEREAS, Lance Corporal Jackson tragically lost his life while heroically and selflessly serving his country in Helmand province, Afghanistan; and

WHEREAS, Lance Corporal Jackson was a dedicated Marine as well as a loving husband, father, son, and brother whose memory lives in the hearts of his family and fellow Marines; and

WHEREAS, Lance Corporal Jackson's patriotism and dedicated service to his country and his fellow Marines make it appropriate and fitting for the State of New Jersey to remember him and his family, to mark his passing, and to honor his memory;

NOW, THEREFORE, I, CHRIS CHRISTIE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of New Jersey shall be flown at half-staff at all State departments, offices, agencies, and instrumentalities during appropriate hours on Wednesday, November 3, 2010, in recognition and mourning of a brave and loyal American hero, United States Marine Lance Corporal Francisco R. Jackson.

2. This Order shall take effect immediately.

Dated October 28, 2010.

EXECUTIVE ORDER NO. 47

WHEREAS, New Jersey's Open Public Records Act, N.J.S.A. 47:1A-1, et seq., provides that government records shall be readily accessible for inspection, examination, and copying by any citizen, with certain exceptions for the protection and preservation of the public interest; and

WHEREAS, The Open Public Records Act requires agencies to safeguard from public access a citizen's personal information whenever disclosure thereof would violate a reasonable expectation of privacy; and

WHEREAS, The Open Public Records Act sets forth certain exemptions of government records from public access, and specifies that exemptions may be established by any other statute, by resolution of either or both houses of the Legislature, by regulation promulgated under the authority of any statute or Executive Order of the Governor, by Executive Order of the Governor, by Rules of Court, or by any federal law, federal regulation, or federal order; and

WHEREAS, Upon the enactment of the Open Public Records Act in 2002, in anticipation of the Act's effective date of July 7, 2002, the State agencies conducted a review of their government records and identified those that should be exempted from public disclosure in order to protect the public interest or to protect citizens' reasonable expectations of privacy; and

WHEREAS, The State agencies published proposed regulations in the New Jersey Register dated July 1, 2002, to establish exemptions from public access to their records in order to protect the public interest or to protect citizens' reasonable expectations of privacy; and

WHEREAS, Executive Order No. 21 (2002) directed that the records covered by the exemptions proposed in the July 1, 2002, the Register would be exempt from public access until the proposed regulations were adopted; and

WHEREAS, Executive Order No. 26 (2002) modified Executive Order No. 21 (2002) for the purpose of redefining some of the exemptions that had been proposed by the agencies on July 1, 2002; and

WHEREAS, Thereafter, the State agencies did not proceed with promulgating as regulations the proposed exemptions published in the July 1, 2002 Register based on their understanding that exemptions had been put into effect by the provisions of Executive Order Nos. 21 and 26 (2002); and

WHEREAS, Certain rulings of the Superior Court of New Jersey, Law Division, and the Government Records Council subsequently upheld the ability of State agencies to apply the exemptions that were put into effect by virtue of Executive Order Nos. 21 and 26 (2002); and

WHEREAS, On June 5, 2010, the Appellate Division of the Superior Court of New Jersey issued an opinion, Slaughter v. Government Records Council, 413 N.J. Super. 544 (App Div. 2010), which reversed a decision of the Government Records Council and held that one of these exemptions, which had been consistently applied since 2002 by the Department of Law and Public Safety for the reasons expressed above, was not effective because it had never been formally promulgated as a regulation under the provisions of the New Jersey Administrative Procedure Act, N.J.S.A. 52:14B-1; and

WHEREAS, The court held further that the Department of Law and Public Safety should have the opportunity to determine whether to adopt the exemption as a regulation under the Administrative Procedure Act; and

WHEREAS, To afford the Department of Law and Public Safety such an opportunity, the court delayed the effectiveness of its decision until November 5, 2010 and permitted the department to continue to apply the exemption up to that date; and

WHEREAS, In accordance with the Slaughter opinion, the State agencies conducted a review of their exemptions and the Departments of Law and Public Safety, Corrections, Military and Veterans Affairs, Environmental Protection, and Community Affairs determined to propose these exemptions for adoption as regulations; and

WHEREAS, The rule proposals of these agencies have been submitted to the Office of Administrative Law for publication in accordance with the Administrative Procedure Act; and

WHEREAS, Because of the requirements of the formal rulemaking process, these proposals cannot be finalized prior to the deadline of November 5, 2010 established by the court in Slaughter; and

WHEREAS, It is in the public interest that these exemptions do not lose their force and effect during the pendency of the rulemaking process;

NOW, THEREFORE, I, CHRIS CHRISTIE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The exemptions from public access that have been proposed by the Departments of Law and Public Safety, Corrections, Military and Veterans Affairs, Environmental Protection, and Community Affairs, set forth in Appendix A attached hereto, shall be and shall remain in full force and effect pending their adoption as final rules pursuant to the provisions of the Administrative Procedure Act.

2. Any provision of Executive Order No. 21 (2002) and Executive Order No. 26 (2002) that applies to any exemption initially proposed by an agency in the July 1, 2002 a New Jersey Register, is hereby rescinded.

3. This Order shall take effect immediately and shall expire on November 15, 2011.

Dated November 3, 2010.

EXECUTIVE ORDER NO. 48

WHEREAS, United States Army Sergeant Michael D. Kirspel, graduated from Hopatcong High School in 2006; and

WHEREAS, Sergeant Kirspel was assigned to the 3rd Battalion, 6th Field Artillery (Strike), 1st Brigade Combat Team, 10th Mountain Division, Fort Drum, NY; and

WHEREAS, Sergeant Kirspel has received some of our nation's highest military honors, including the Army Commendation Medal with Valor, the National Defense Service Medal, the Afghanistan Campaign Medal, the Iraq Campaign Medal, the NATO Medal, the Global War on Terrorism Service Medal, the Army Achievement Medal, the Army Service Ribbon, the Overseas Service Ribbon, the Combat Action Badge, the Marksmanship Qualification Badge and the Driver Mechanic Badge; and

WHEREAS, Sergeant Kirspel was an ambitious and courageous young man who loved his country and the military; and

WHEREAS, Sergeant Kirspel tragically lost his life while heroically and selflessly serving his country near the village of Khwaja Kinti, Afghanistan; and

WHEREAS, Sergeant Kirspel was a dedicated soldier as well as a loving son and brother whose memory lives in the hearts of his family and fellow soldiers; and

WHEREAS, Sergeant Kirspel's patriotism and dedicated service to his country and his fellow soldiers make it appropriate and fitting for the State of New Jersey to remember him and his family, to mark his passing, and to honor his memory;

NOW, THEREFORE, I, CHRIS CHRISTIE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of New Jersey shall be flown at half-staff at all State departments, offices, agencies, and instrumentalities during appropriate hours on Friday, November 12, 2010, in recognition and mourning of a brave and loyal American hero, United States Army Sergeant Michael D. Kirspel, Jr.

2. This Order shall take effect immediately.

Dated November 9, 2010.

EXECUTIVE ORDER NO. 49

WHEREAS, The National Weather Service has issued a Blizzard Warning for the entire State of New Jersey predicting heavy snow, high winds, tidal and coastal flooding and blizzard conditions beginning on December 26, 2010 and continuing; and

WHEREAS, This severe winter storm is expected to produce from eight to twenty inches of snow through the State, with forecasts of significantly higher snowfall accumulations in some localities, high winds with gusts of 35 to 45 miles per hour, tidal and coastal flooding, blizzard conditions and snow drifts which will impede transportation and the flow of traffic throughout the State; and

WHEREAS, This severe winter storm is expected to cause widespread power outages to tens of thousands of homes, nursing homes and business, requiring State and local government to open shelters and assist in evacuations, as well as leaving roadways impassable and clogged with snow; and

WHEREAS, The impending severe winter storm and flood conditions will make if difficult or impossible for citizens to obtain the necessities of life, as well as essential services such as police, fire and first aid; and

WHEREAS, The aforesaid weather and flood conditions constitute an imminent hazard that threatens and endangers the health, safety and resources of the residents of one or more municipalities and counties of this State; and

WHEREAS, This situation may become too large in scope to be handled by the normal county and local operating services in some parts of the State; and

WHEREAS, The Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. App.A:9-33 et seq., N.J.S.A. 38A:3-6,.1 and N.J.S.A.

38A:2-4 and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers;

NOW, THEREFORE, I, STEPHEN M. SWEENEY, Acting Governor of the State of New Jersey, in order to protect the health, safety and welfare of the people of the State of New Jersey DO DECLARE and PROCLAIM that a State of Emergency presently exists throughout the State of New Jersey; and I hereby ORDER and DIRECT the following:

1. I authorize and empower the State Director of Emergency Management to activate those elements of the State Emergency Operations Plan that he deems necessary to further safeguard the public security, health, and welfare, and to coordinate the recovery effort from this emergency with all governmental agencies, volunteer organizations, and the private sector.

2. I authorize and empower, in accordance with N.J.S.A. App.A:9-33 et seq., the State Director of Emergency Management, who is the Superintendent of State Police, through the police agencies under his control, to determine the control and direction of the flow of such vehicular traffic on any State Highway or municipal or county road, including the right to detour, reroute, or divert any or all traffic and to prevent ingress or egress from any area that, in the State Director's discretion, is deemed necessary for the protection of the health, safety, and welfare of the public, and to remove parked or abandoned vehicles from such roadways as conditions warrant.

3. I authorize and empower the Attorney General, pursuant to the provisions of N.J.S.A.394-213, acting through the Superintendent of State Police, to determine the control and direction of the flow of vehicular traffic on any State, municipal, county, or interstate highway, and its access roads, including the right to detour, reroute or divert any or all traffic, and to prevent ingress or egress from any area to which the declaration of emergency applies, and further authorize all law enforcement officers to enforce any such order of the Superintendent of State Police within their respective municipalities.

4. I authorize and empower the State Director of Emergency Management to order the evacuation of all persons, except for those emergency and governmental personnel whose presence the State Director deems necessary, from any area where their continued presence would present a danger to their health, safety, or welfare because of the conditions created by this emergency.

5. I authorize and empower the State Director of Emergency Management to utilize all facilities owned, rented, operated, and maintained by the State of New Jersey to house and shelter persons who may need to be evacuated from a residence, dwelling, building, structure, or vehicle during the course of the emergency.

6. I authorize and empower the executive head of any agency or instrumentality of the State government with authority to promulgate rules to waive, suspend, or modify any existing rule the enforcement of which would be detrimental to the public welfare during this emergency, notwithstanding the provisions of the Adminis-

trative Procedure Act or any law to the contrary for the duration of this Executive Order, subject to the prior approval of the Governor or Acting Governor and in consultation with the State Director of Emergency Management. Any such waiver, modification, or suspension shall be promulgated in accordance with N.J.S.A. App.A:9-45.

7. I authorize and empower the Adjutant General, in accordance with N.J.S.A.38A:2-4 and N.J.S.A.38A:3-6.1, to order to active duty such members of the New Jersey National Guard who, in the Adjutant General's judgment, are necessary to provide aid to those localities where there is a threat or danger to the public health, safety, and welfare and to authorize the employment of any supporting vehicles, equipment, communications, or supplies as may be necessary to support the members so ordered.

8. In accordance with the N.J.S.A. App.A:9-34 and N.J.S.A. App.A:9-51, I reserve the right to utilize and employ all available resources of the State government and of each and every political subdivision of the State, whether of persons, properties, or instrumentalities, and to commandeer and utilize any personal services and any privately owned property necessary to protect against this emergency.

9. This Order shall take effect immediately and shall remain in effect until such time as it is determined by the Governor or Acting Governor that an emergency no longer exists.

Dated December 26, 2010.

EXECUTIVE ORDER NO. 50

WHEREAS, Executive Order No. 49 (2010), declaring a State of Emergency, was issued on December 26, 2010 because of a severe weather storm that produced heavy snowfall, high winds, blizzard conditions and snow drifts which endangered the health, safety and resources of the residents of the State of New Jersey and impeded transportation and the flow of traffic throughout the State; and

WHEREAS, The severity of the conditions necessitating the declaration of a State of Emergency has now eased, although the recovery from the effects of this severe winter storm will take some time, and the emergency powers granted by a State of Emergency are no longer necessary;

NOW, THEREFORE, I, STEPHEN M. SWEENEY, Acting Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The State of Emergency declared in Executive Order No. 49 (2010) is terminated effective immediately.

Dated December 27, 2010.

EXECUTIVE ORDER NO. 51

WHEREAS, a robust healthcare and medical education system is vital to the well-being of New Jersey residents and the State's economic prosperity; and

WHEREAS, the University of Medicine and Dentistry of New Jersey ("UMDNJ") is the nation's largest public health sciences university, consisting of eight schools; and

WHEREAS, as a public medical school, UMDNJ provides a broad variety of services in the State, ranging from the provision of education and training of physicians and other healthcare professionals, to the delivery of medical care to patients; and

WHEREAS, UMDNJ is one of the ten largest employers in New Jersey; and

WHEREAS, while UMDNJ offers expansive services throughout the State and plays a significant role in the State's economy, it has also had a challenging history which has contributed to a perception that the school does not function as efficiently as it could, and is in need of continued reform; and

WHEREAS, unlike the vast majority of medical schools in most other states which are affiliated with a research university, UMDNJ is a free-standing institution and has no affiliation with a research university; and

WHEREAS, the Higher Education Task Force ("Task Force") was established in May 2010 to study important issues facing the higher education system in New Jersey, and to provide recommendations to the Governor concerning the higher education system; and

WHEREAS, while the Task Force was not tasked specifically with the review of medical education in New Jersey, its report noted the importance of addressing medical education in New Jersey and the issues surrounding UMDNJ; and

WHEREAS, the Task Force concluded in its report that medical education in New Jersey is vital to the future educational, economic, and healthcare needs of New Jersey; and

WHEREAS, while recognizing the size and complexities of UMDNJ and its various financial, personnel, logistic and accreditation issues, the Task Force recommended partial changes to the structure of UMDNJ and further recommended the creation of an expert panel to address these issues;

NOW, THEREFORE, I, CHRIS CHRISTIE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. There is hereby established the University of Medicine and Dentistry of New Jersey Advisory Committee, hereinafter referred to as the "Committee."

2. The Committee shall consist of up to five (5) members to be appointed by the Governor. These members shall include individuals from both inside and outside government who have knowledge or expertise in the areas of (a) administration,

(b) public health, (c) medical, dental, nursing, or biomedical science education, and/or (d) related areas or subject matters. All members of the Committee shall serve without compensation. The Committee shall organize as soon as practicable after the appointment of its members.

3. The Committee is charged with examining the delivery of graduate medical education in the State and developing recommendations for the Governor concerning this issue. The Committee shall review the recommendations made by the Higher Education Task Force concerning graduate medical education and UMDNJ. The Committee shall also examine and provide recommendations concerning the following issues: (a) whether Robert Wood Johnson Medical School and the School of Public Health should be merged with Rutgers University's New Brunswick-Piscataway campuses; (b) whether UMDNJ's Newark- based schools should be merged with any of the senior public higher education institutions in Newark; (c) whether UMDNJ's South Jersey – based schools should be merged with any of the senior public higher education institutions in South Jersey; (d) the role and mission of University Hospital; (e) whether NJIT should start its own medical school; (f) how graduate medical education should be delivered in South Jersey; (g) whether the various public nursing schools should merge; and (h) such other matters as may be referred to the Committee by the Governor.

4. The Governor's office shall provide staff support to the Committee. The Committee shall be authorized to call upon any department, office, division, or agency of this State to supply it with any information, personnel, or other assistance available as the Committee deems necessary to discharge its duties under this Order. Each department, office, division, and agency of this State is hereby required, to the extent not inconsistent with law, to cooperate fully with the Committee within the limits of its statutory authority and to furnish the Committee with such assistance on as timely a basis as is necessary to accomplish the purpose of this Order. The Committee may consult with experts or other knowledgeable individuals in the public or private sector on any aspect of its mission.

5. In formulating its recommendations pursuant to this Order, the Committee may elicit public input from individuals, members of UMDNJ and other medical and healthcare institutions, organizations, and other interested parties.

6. The Committee may report to the Governor from time to time and shall issue a final report to the Governor setting forth the Committee's recommendations pursuant to this Order no later than September 1, 2011. The Committee shall expire upon the issuance of its final report.

7. The final report of the Committee shall be provided to the legislature and shall be made available to the public.

8. This Order shall take effect immediately.

Dated January 4, 2011.

EXECUTIVE ORDER NO. 52

WHEREAS, while it is of paramount importance in New Jersey ("State") to support strong autonomous institutions of higher education, it is also essential to maintain appropriate State oversight and coordination in order to ensure that the State's higher educational needs are being met and the taxpayers' investment in these institutions are being protected; and

WHEREAS, this Administration is committed to improving the current system of higher education in New Jersey, as well as its statewide coordinating structure; and

WHEREAS, to this end, the Higher Education Task Force ("Task Force") was established by Executive Order No. 26 on May 7, 2010 to assist in identifying challenges facing New Jersey's institutions of higher education and to offer recommendations to the Governor to further the quality and success of these institutions and the overall system of higher education in the State; and

WHEREAS, the Task Force issued a report which, among other things, recommended the reformation of New Jersey's statewide coordinating structure for higher education by eliminating the Commission on Higher Education and replacing it with a Secretary of Higher Education and a new advisory Governor's Higher Education Council; and

WHEREAS, this Administration concurs with the findings of the Task Force that New Jersey needs to reform its statewide coordinating structure for higher education.

NOW, THEREFORE, I, CHRIS CHRISTIE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. There is hereby created the Governor's Higher Education Council, hereinafter referred to as the "Council."

2. The Council shall consist of five (5) members appointed by the Governor who shall serve at his pleasure. All members of the Council shall serve without compensation and shall organize as soon as practicable after the appointment of its members. The Governor will appoint its members to 5-year staggered terms. A vacancy occurring among any of the members, other than by expiration of term, shall be filled for the balance of the unexpired term only and in the same manner as the original appointment. A member may serve until a successor is appointed. The Governor will designate the Chair and Vice-Chair, and membership to the Council shall include individuals of high distinction with significant experience and knowledge in the area of higher education. The Council should meet not less than quarterly.

3. The Governor's Higher Education Council shall: (a) serve as an advisory body to the Governor on higher education issues; (b) make recommendations to the Governor on higher education initiatives of statewide significance; and (c) provide

advice to the Secretary of Higher Education ("Secretary") and assist the Secretary in carrying out his or her duties. The Council may be tasked with other duties as requested by the Governor.

4. The Council shall be authorized to call upon any department, office or agency of State government to provide such information, resources or other assistance deemed necessary to discharge its responsibilities under this Order. Each department, officer, division and agency of this State is hereby required, to the extent not inconsistent with law, to cooperate with the Council within the limits of its statutory authority and to furnish The Council with such assistance on as timely a basis as is necessary to accomplish the purposes of this Order.

This Order shall take effect immediately.

5. This Order shall take effect immediately.

Dated January 4, 2011.

AMENDMENT ADOPTED IN 2010 TO THE 1947 CONSTITUTION

AMENDMENT ADOPTED IN 2010 TO THE 1947 CONSTITUTION

ARTICLE VIII, SECTION II PARAGRAPH 8

Amend Article VIII, Section II by adding paragraph 8 to read as follows:

8. No contributions from employers, other than the State, or from employees of those employers, collected by the State entirely by means of an assessment exclusively on, or exclusively measured by, the wages or salaries paid by the employers to the employees, and no interest or income derived from any investment of those contributions, shall be used for any purpose other than providing and administering benefits to employees and their families or dependents. No contributions collected by the State entirely by means of an assessment exclusively on, or exclusively measured by, the wages or salaries paid by the State to the employees of the State, and no interest or income derived from any investment of those contributions, shall be used for any purpose other than providing and administering benefits to employees and their families or dependents, for payments to parties other than the State authorized by employees or through collective bargaining agreements or required by federal law, or for the collection of amounts owed by employees made pursuant to law. All contributions collected by the State from any employer or employee for the unemployment compensation fund or any successor fund or program established to provide for unemployment compensation benefits, and all interest and income derived from any investment of those contributions, shall be dedicated solely to the purpose of providing and administering unemployment compensation benefits. All contributions collected by the State from any employer or employee for the State disability benefits fund or any successor fund or program established to provide temporary disability benefits, and all interest and income derived from any investment of those contributions, shall be dedicated solely to the purpose of providing and administering temporary disability benefits. All contributions collected by the State from any employer or insurer for the Second Injury Fund or any successor fund or pro-

gram established to provide workers' compensation benefits, and all interest and income derived from any investment of those contributions, shall be dedicated solely to the purpose of providing and administering workers' compensation benefits. All contributions collected by the State from any employer, employee or insurer for any other fund or program established to provide any other benefits for employees and their families or dependents, including training and employment-related services for employees and prospective employees, and all interest and income derived from any investment of those contributions, shall be dedicated solely to the purpose of providing and administering those benefits. No part of the contributions, interest or income shall be directly or indirectly transferred, borrowed, appropriated or used for any purpose other than providing and administering benefits pursuant to this paragraph. The requirements and limitations of this paragraph shall not apply to: any tax collected by the United States or by the State on the behalf of the United States; any fees, fines, penalties or assessments levied by the State in the enforcement of any State law; or any tax which is levied by the State on personal incomes of individuals, estates and trusts for which, pursuant to the provisions of Article VIII, Section I, paragraph 7 of the Constitution, the entire net receipts therefrom are annually appropriated exclusively for the purpose of reducing or offsetting property taxes.

Approved November 2, 2010.
Effective December 2, 2010.

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Banking and Insurance, Department, taxes, assessments dedicated to administrative costs, laws regarding; amended, amends C.17:1C-31 et al., Ch.21.

CHILDREN
Catastrophic Illness in Children Relief Fund, benefit eligibility for certain families with more than one qualifying child; provided, amends C.26:2-155, Ch.84.
Children placed in resource family homes, determination of school district; method changed, C.30:4C-26b, amends C.18A:7B-12 et al., Ch.69.
Shaken baby syndrome, provision of information on home visitation services to parents of newborns; required, amends C.26:2H-12.6a, Ch.67.

CIVIL ACTIONS
"Construction Lien Law"; revised, C.2A:44A-24.1, amends C.2A:44A-2 et al., repeals C.2A:44A-16 et al., Ch.119.
Midwives included within definition of "licensed person" for purposes of affidavits of merit in certain actions, amends C.2A:53A-26, Ch.88.

CIVIL DEFENSE
Emergency plans, electronic submission by certain entities; permitted, C.App.A:9-43.7, amends C.App.A:9-43.4, Ch.66.
Sports, entertainment facilities, certain, submission of emergency operations plan to municipal emergency management coordinator; required, C.52:27D-224.3, Ch.78.

CIVIL SERVICE
Civil service examinations, fees, certain; increased, review of fees; required, amends C.11A:4-1.1, Ch.26.
Law enforcement officers, certain, hiring without use of Civil Service lists; permitted, C.40A:14-180.1 et al., amends C.40A:14-180, Ch.103.

COLLEGES AND UNIVERSITIES
State college risk management groups, joint liability funds, formation; authorized, C.18A:64-86 et seq., amends C.52:18A-221, Ch.99.

COMMISSIONS
Inactive boards, commissions, committees, councils and task forces, certain; eliminated, amends C.24:6E-4 et al., repeals C.18A:73-28 et al., Ch.87.
New Jersey Aphasia Study Commission; established, Ch.117.

COMMUNICATIONS
Chief Technology Officer in OTIS, study, report on potential benefits of expanding use of electronic transactions; directed, Ch.76.

CONSUMER AFFAIRS
Consumer complaints to licensing boards of regulated professions, resolution within certain period of time; required, amends C.45:1-18, Ch.17.

CORPORATIONS
Annual cap on corporation business tax benefit programs; temporarily reduced, C.34:1B-7.42c et al., Ch.20.
Shareholder actions, certain, waiting period, advance notice requirement; eliminated, amends N.J.S.14A:5-6, Ch.15.

CORRECTIONS
"Blue Ribbon Panel to Review New Jersey's Inmate Policy"; established, repeals C.30:4-123.96, Ch.86.
Parole, early, certain inmates, effective date permitting; delayed, Ch.6.

COUNTIES
Council on Local Mandates, filing of complaints by certain organizations; permitted, amends C.52:13H-12 et al., Ch.106.
Deer management plans, permits for county-owned lands, development by county; authorized, amends C.23:4-42.3 et seq., Ch.53.
Director of Board of Freeholders, use of veto power over actions of county authorities; authorized, C.40:20-71.3, amends C.40:14A-5 et al., Ch.51.
Property tax levy cap; reduced, increases, certain, banking; permitted, amends C.18A:6-114 et al., repeals C.18A:7F-5a et al., Ch.44.

CRIMES AND OFFENSES
Assault upon health care professionals, workers, certain, penalties; upgraded, amends N.J.S.2C:12-1, Ch.109.
Medicaid fraud, penalties; increased, C.30:4D-17a et seq., amends N.J.S.2C:44-1 et al., Ch.30.
Victim claims, payment, exception to five-year limit; established, amends C.52:4B-18, Ch.92.

DOMESTIC RELATIONS
Minor and child remaining together as family unit when placed by DYFS, certain circumstances; provided, C.30:4C-26.20 et seq., Ch.98.

DRUGS
New Jersey Compassionate Use Medical Marijuana Act, effective date; changed, Ch.36.

ELECTIONS
Petitions for nomination, candidate permitted to sign and circulate own, amends R.S.19:13-5 et al., Ch.68.

ENVIRONMENT
Fertilizers, laws concerning; revised, C.58:10A-61 et al., amends C.4:9-15.13, Ch.112.
Highlands Region:
Expiration date for special appraisal process for Green Acres and farmland preservation programs; extended, amends C.13:8C-3 et al., Ch.70.
Transfer of development rights program, law concerning; changed, amends C.13:20-13, Ch.7.

ENVIRONMENT (Continued)
"Offshore Wind Economic Development Act," C.48:3-87.1 et al., amends C.48:3-51 et al., Ch.47.
Solar panels, exemption from impervious surface, cover designation; provided, C.13:18A-5.2 et al., amends R.S.12:5-3 et al., Ch.4.
State Soil Conservation Committee, adoption of standards concerning soil restoration measure; required, C.4:24-42.1, amends C.4:24-41, Ch.113.
Stormwater basins in Barnegat Bay, study, inclusion of repairs in capital project plans; required, C.27:1B-22.4 et al., Ch.114.

EXECUTIVE ORDERS
Administrative rules and regulations, frozen, suspended for 90 days, No.1.
Common sense principles for State agencies, relative to regulations, directed, No.2.
County Prosecutor Study Commission; created, No.33.
Employees, certain, of the NJ Casino Control Commission considered attendance employees, No.6.
Executive Order No.103 (2008), Executive Order No.135 (2009); rescinded, No.19.
Executive Order No.11 (2010); amended, No.34.
Executive Order No.12 (2010); rescinded, No.20.
W. Cary Edwards; death commemorated, No.45.
Governor's Council of Economic Advisors; established, No.5.
Housing Opportunity Task Force; established, No.12.
Judicial Advisory Panel, continuance with certain modifications; provided, No.32.
New Jersey Educator Effectiveness Task Force; created, No. 42.
New Jersey Gaming, Sports, and Entertainment Advisory Commission; created, No.11.
New Jersey Higher Education Task Force; created, No.26.
New Jersey Privatization Task Force; created, No.17.
Open Public Records Act, exemptions; revised, No.47.
"Pay-to-Play" restrictions modified to include certain labor unions, No.7.
Public officials, ethical standards, No.24.
Red Tape Review Group; established, No.3, reauthorized, No.41.
Senator Frank J. "Pat" Dodd; death commemorated, No.28.
September 11, 2001 attacks; memorialized, No.39.
State agencies prohibited to submit regulation containing unfunded mandate, No.4.
State authorities, certain; abolished, No.40.
State authorities, contracts with lobbyists, legislative agents, authorization; required, No.15.
State expenditures, publication of quarterly report; required, No.8.
State of emergency, blizzard; declared, No.49, terminated, No.50.
State of emergency, financial crisis; declared, No.14.
State of emergency, severe weather conditions; declared, No.18.

EXECUTIVE ORDERS (Continued)
State of emergency, severe winter storm; declared, No.13.
The Governor's Passaic River Basin Flood Advisory Commission; created, No.23.
Trooper Marc K. Castellano; death commemorated, No.30.
United States Army 1st Lieutenant Salvatore S. Corma; death commemorated, No.27.
United States Army Colonel John M. McHugh; death commemorated, No.29.
United States Army Corporal Michael D. Jankiewicz; death commemorated, No.22.
United States Army Sergeant Jamal M. Rhett; death commemorated, No.37.
United States Army Sergeant Marcos Gorra; death commemorated, No.16.
United States Army Sergeant Michael D. Kirspel; death commemorated, No.48.
United States Army Sergeant Ronald Alan Kubik; death commemorated, No.25.
United States Army Specialist Pedro A. Millet Meletiche; death commemorated, No.38.
United States Army Specialist Stanley J. Sokolowski; death commemorated, No.31.
United States Congressman Robert Douglas "Bob" Franks; death commemorated, No.21.
United States Marine Lance Corporal Francisco R. Jackson; commemorated, No.46.
United States Marine Lance Corporal Jeremy Kane; death commemorated, No.10.
United States Marine Major James M. Weis; death commemorated, No.35.
United States Marine Sergeant Christopher R. Hrbek; death commemorated, No.9.
United States Navy Special Warfare Operator 3rd Class (SEAL) Denis C. Miranda; death commemorated, No.43.
University of Medicine and Dentistry Advisory Committee; established, No.51.

FEES AND COSTS
Copy fees for certain public documents; decreased, amends C.22A:4-1a et al., Ch.75.

FISH, GAME AND WILDLIFE
Bow and arrow hunting, authorized perimeter for hunting around occupied building; changed, amend R.S.23:4-16, Ch.52.
Deer management plans, permits for county-owned lands, development by county; authorized, amends C.23:4-42.3 et seq., Ch.53.
Menhaden, license for taking, regulations revised, C.23:3-51.1, amends R.S.23:3-51, Ch.72.

GAMES AND GAMBLING
Casino licensure, alternative methods, pilot program; established, C.5:12-80.1 et seq., Ch.115.

HANDICAPPED PERSONS
Central Registry of Offenders Against Individuals with Developmental Disabilities; established, C.30:6D-73 et seq., Ch.5.
References to "mental retardation," "intellectual or developmental" disability; changed, C.30:6D-32.5, amends C.2A:4A-46 et al., repeals N.J.S.2A:41-1 et al., Ch.50.

HEALTH
Catastrophic Illness in Children Relief Fund, benefit eligibility for certain families with more than one qualifying child; provided, amends C.26:2-155, Ch.84.
Contact lenses, drugs delivered through, prescribed by physicians, certain; regulated, amends C.45:9-22.11 et al., Ch.12.
Jaden's Law, bone marrow donation, online information brochure; required, C.26:2H-12.59, Ch.61.
Medicaid medical home demonstration project, establishment; directed, C.30:4D-17.33 et seq., Ch.74.
Medicaid fraud, penalties; increased, C.30:4D-17a et seq., amends N.J.S.2C:44-1 et al., Ch.30.
New Jersey Aphasia Study Commission; established, Ch.117.
New Jersey Compassionate Use Medical Marijuana Act, effective date; changed, Ch.36.
New Jersey Epilepsy Task Force; established, Ch.48.
Shaken baby syndrome, provision of information on home visitation services to parents of newborns; required, amends C.26:2H-12.6a, Ch.67.
Student athletes, development of head injury training program, protection of students with concussions, continuing education for athletic trainers; required, C.18A:40-41.1 et al., Ch.94.

HIGHWAYS
"Gregory F. Velardi, Sr., Ramp," ramp off State Highway Rt. 23 at Alps Road in Wayne Township; designed, Ch.85.
"South Jersey Vietnam Veterans' Highway," portion of Route 47 in Glassboro; designated, Ch.45.

HOLIDAYS AND OBSERVANCES
"Crime Victims' Rights Week," last full week in April; designed, C.36:2-163 et seq., J.R.5.
"Fall Prevention Awareness Week," third full week of September; designed, C.36:2-161 et seq., J.R.4.
"Immunization Awareness Month," August; designated, C.36:2-159 et seq., J.R.3.
"Mesothelioma Awareness Day," September 26; designated, C.36:2-155 et seq., J.R.1.
"Pain Awareness Month," September; designated, C.36:2-157 et seq., J.R.2.
"Teen Cancer Awareness Week," third week in January; designed, J.R.6.

HOSPITALS
Charity care subsidies, funding, laws concerning; revised, amends C.26:2H-18.57 et al., Ch.23.
Medicaid fraud, penalties; increased, C.30:4D-17a et seq., amends N.J.S.2C:44-1 et al., Ch.30.
"New Jersey Trauma Center" at University Hospital renamed "Eric Munoz Trauma Center," Ch.80.

HOTELS
Municipal hotel occupancy tax, provision of information, certain, to municipalities; required, C.40:48F-6 et seq., amends C.40:48F-1 et al., Ch.54.

HUMAN SERVICES
Central Registry of Offenders Against Individuals with Developmental Disabilities; established, C.30:6D-73 et seq., Ch.5.
Children placed in resource family homes, determination of school district; method changed, C.30:4C-26b, amends C.18A:7B-12 et al., Ch.69.
Medicaid medical home demonstration project, establishment; directed, C.30:4D-17.33 et seq., Ch.74.
Minor and child remaining together as family unit when placed by DYFS, certain circumstances; provided, C.30:4C-26.20 et seq., Ch.98.
References to "mental retardation," "intellectual or developmental" disability; changed, C.30:6D-32.5, amends C.2A:4A-46 et al., repeals N.J.S.2A:41-1 et al., Ch.50.
Shaken baby syndrome, provision of information on home visitation services to parents of newborns; required, amends C.26:2H-12.6a, Ch.67.
State Mental Health Facilities Evaluation Task Force; established, Ch.81.

INSURANCE
Insurance fraud, Bureau of Fraud Deterrence, established, Office of Insurance Fraud Prosecutor, structure; modified, amends C.17:33A-3 et al., Ch.32.
"Interstate Insurance Product Regulation Compact," C.17B:37-1 et seq., Ch.120.
Medicaid fraud, penalties; increased, C.30:4D-17a et seq., amends N.J.S.2C:44-1 et al., Ch.30.
Medicare beneficiaries, licensed health care professionals, facilities, billing within 90 days of finalized insurance payment; required, C.26:2H-12.60 et al, Ch.95.
Mortgage guaranty insurance company, waiving of statutory liability-to-policyholders' surplus ratio, certain circumstances; permitted, Ch.93.
SHBP, SEHBP, laws concerning; changed, C.18A:64A-13.1a, amends C.52:14-17.28b et al., Ch.2.
Surplus lines producer fees, certain; regulated, amends C.17:22A-38, Ch.42.

INTERSTATE RELATIONS
"Interstate Insurance Product Regulation Compact," C.17B:37-1 et seq., Ch.120.

JOINT RESOLUTIONS
"Crime Victims' Rights Week," last full week in April; designed, C.36:2-163 et seq., J.R.5.
"Fall Prevention Awareness Week," third full week of September; designed, C.36:2-161 et seq., J.R.4.
"Immunization Awareness Month," August; designated, C.36:2-159 et seq., J.R.3.
"Mesothelioma Awareness Day," September 26; designated, C.36:2-155 et seq., J.R.1.
"Pain Awareness Month," September; designated, C.36:2-157 et seq., J.R.2.
"Teen Cancer Awareness Week," third week in January; designed, J.R.6.

LABOR
Business Retention and Relocation Assistance Grant Program, laws concerning; revised, amends C.34:1B-113 et al., repeals C.34:1B-122, Ch.123.
Main Street Business Assistance Program, laws concerning; amended, amends C.34:1B-7.13 et al., Ch.28.
Police and fire contract disputes, cap on certain arbitration awards; provided, C.34:13A-16.7 et seq., amends C.34:13A-16, Ch.105.

MILITARY AND VETERANS
Deceased service members, provision of certain information to surviving beneficiary; required, C.38A:3-28.1, Ch.11.
Handicap accessible vehicle purchase, fundraising by department; permitted, Ch.8.
New Jersey Honor Guard Ribbon; created, C.48A:15-7, Ch.58.
Operation Recognition; expanded, amends C.18A:7C-4.1, Ch.59.
Veterans' Services Council, membership; expanded, amends C.13:1B-20 et seq., Ch.60.

MOTOR VEHICLES
Commercial motor vehicles, use of citizen's band, two-way radio; permitted, amends C.39:4-97.3, Ch.40.
Inspections, new car, waiver; extended, safety inspections for vehicles, certain; eliminated, amends R.S.39:8-1 et seq., Ch.29.
Professional sports team specialty license plates; established, C.39:3-27.140, Ch.24.

MUNICIPALITIES
Contractually required severance liabilities, adoption of ordinance authorizing certain emergency appropriations; permitted, amends N.J.S.40A:4-53, Ch.46.

MUNICIPALITIES (Continued)
Council on Local Mandates, filing of complaints by certain organizations; permitted, amends C.52:13H-12 et al., Ch.106.
Development application process; changed, C.40:55D-10.5, Ch.9.
Municipal calculation of reserve for uncollected taxes, certain circumstances, minimum threshold; eliminated, amends N.J.S.40A:4-41, Ch.56.
Municipal free library surplus amounts, certain, transfer to municipalities for general purposes, amends R.S.40:54-15, Ch.83.
Municipal hotel occupancy tax, provision of information, certain, to municipalities; required, C.40:48F-6 et seq., amends C.40:48F-1 et al., Ch.54.
Property tax levy cap; reduced, increases, certain, banking; permitted, amends C.18A:6-114 et al., repeals C.18A:7F-5a et al., Ch.44.

PENSIONS AND RETIREMENT
Alternate Benefit Program, limit on State's employer contributions; established, amends C.18A:66-174, Ch.31.
State-administered retirement systems, laws concerning; amended, C.18A:66-19.1 et al., amends N.J.S.18A:66-4 et al., Ch.1.

POLICE
Gang related incident offense reports, information forwarded to Superintendent of State Police for inclusion in Uniform Crime Report, amends C.52:17B-5.3, Ch.110.
Law enforcement officers, certain, hiring without use of Civil Service lists; permitted, C.40A:14-180.1 et al., amends C.40A:14-180, Ch.103.

PROFESSIONS AND OCCUPATIONS
Consumer complaints to licensing boards of regulated professions, resolution within certain period of time; required, amends C.45:1-18, Ch.17.
Contact lenses, drugs delivered through, prescribed by physicians, certain; regulated, amends C.45:9-22.11 et al., Ch.12.
Midwives included within definition of "licensed person" for purposes of affidavits of merit in certain actions, amends C.2A:53A-26, Ch.88.
Physicians, veterinarians, earning continuing education credits by providing certain free medical, veterinary services; permitted, C.45:16-9.4a et al., amends C.45:9-7.1 et al., Ch.89.
Public adjusters, statutes concerning; revised, amends C.17:22B-9 et al., Ch.116.

PUBLIC CONTRACTS
Bids for public works contract, withdrawal due to mistake, certain circumstances; permitted, C.40A:11-23.2, amends C.40A:11-2 et al., Ch.108.

PUBLIC EMPLOYEES
Payments, disability retirement, certain, laws concerning; changed, C.11A:6-19.2 et al., amends N.J.S.18A:66-39 et al., Ch.3.
Firefighters, certain, hiring by municipal fire departments, time period when permitted; extended, amends C.40A:14-9.9 et al., Ch.43.
Police and fire contract disputes, cap on certain arbitration awards; provided, C.34:13A-16.7 et seq., amends C.34:13A-16, Ch.105.
SHBP, SEHBP, laws concerning; changed, C.18A:64A-13.1a, amends C.52:14-17.28b et al., Ch.2.
Tuition assistance for school district employees, other benefits, conditions; imposed, C.18A:6-8.5 et seq., Ch.13.

PUBLIC UTILITIES
Companies under BPU jurisdiction, billing customers electronically, certain circumstances; permitted, C.48:3-96.1, Ch.90.
"New Jersey Public Broadcasting System Transfer Act," C.48:23-18 et seq., amends C.48:23-2 et al., repeals C.19:44A-39 et al., Ch.104.
"Offshore Wind Economic Development Act," C.48:3-87.1 et al., amends C.48:3-51 et al., Ch.47.
Public providers of utility services, electronic billing of customers, certain circumstances; permitted, C.40:62-25.6 et al., amends C.40:14A-7 et al., Ch.91.

RACING
Horse racing, certain, minimum racing dates; reduced, breeders' awards, laws concerning; changed, loans, certain; authorized, amends C.5:5-156 et al., Ch.18.

REAL PROPERTY
Presumption of abandonment, dormancy fees, administration for certain unclaimed property, laws regarding; changed, C.46:30B-42.1, amends R.S.46:30B-6 et al., repeals C.46:8-182 et seq., Ch.25.
Private transfer fees, certain; prohibited, disclosure requirements; imposed, C.46:3-28 et seq., Ch.102.

SCHOOLS
Advertisements on school buses, certain; permitted, C.18A:39-31 et al., Ch.121.
"Anti-Bullying Bill of Rights Act," C.18A:37-13.1 et al., amends C.18A:6-7.1 et al., Ch.122.
Audit, annual of school district, time allowed for completion; extended, amends N.J.S.18A:23-1, Ch.49.
Children placed in resource family homes, determination of school district; method changed, C.30:4C-26b, amends C.18A:7B-12 et al., Ch.69.
Funding for special education evaluation services for certain pupils, school district eligibility; clarified, amends C.18A:46-19.8, Ch.71.

SCHOOLS (Continued)
"Interdistrict Public School Choice Program Act," C.18A:36B-14 et seq., repeals C.18A:36B-1 et seq., Ch.65.
Operation Recognition; expanded, amends C.18A:7C-4.1, Ch.59.
Property tax levy cap; reduced, increases, certain, banking; permitted, amends C.18A:6-114 et al., repeals C.18A:7F-5a et al., Ch.44.
School facilities projects, information on contracts awarded to minority, female contracts, compilation of information; required, C.18A:7G-24.1, amends C.18A:7G-24, Ch.96.
Student athletes, development of head injury training program, protection of students with concussions, continuing education for athletic trainers; required, C.18A:40-41.1 et al., Ch.94.
Summer school tuition charge for certain students; permitted, C.18A:11-14 et seq., Ch.73.
Teaching positions, vacant, filling by substitute teacher, amount of time; limited, C.18A:16-1.1a, Ch.97.
Teaching positions, vacant, filling by teachers, certain, employed in temporary capacity; limited, C.18A:16-1.1b et seq., Ch.100.
Treasurer of school moneys, position; optional, C.18A:17-9.1 et seq., amends N.J.S.18A:2-2 et al., Ch.39.

SECURITIES
Sales of securities, use of senior-specific certifications, professional designations; prohibited, C.49:3-52.2, Ch.41.

SENIOR CITIZENS
Sales of securities, use of senior-specific certifications, professional designations; prohibited, C.49:3-52.2, Ch.41.

SEWERAGE
Public providers of utility services, electronic billing of customers, certain circumstances; permitted, C.40:62-25.6 et al., amends C.40:14A-7 et al., Ch.91.

STATE GOVERNMENT
Chief Technology Officer in OTIS, study, report on potential benefits of expanding use of electronic transactions; directed, Ch.76.
Council on Local Mandates, filing of complaints by certain organizations; permitted, amends C.52:13H-12 et al., Ch.106.
Financial institutions, minority and women-owned, opportunity to serve in certain capacities relative to State entities; encouraged, C.52:32-48, Ch.107.
Office of the Inspector General, Office of the Medicaid Inspector General, consolidated under Office of the State Comptroller, C.52:15C-20 et seq., repeals C.52:15B-2 et al., Ch.33.

STATE GOVERNMENT (Continued)
"Fort Monmouth Economic Revitalization Authority Act," C.52:27I-18 et seq., repeals C.52:27I-1 et al., Ch.51.
Inactive boards, commissions, committees, councils and task forces, certain; eliminated, amends C.24:6E-4 et al., repeals C.18A:73-28 et al., Ch.87.
"New Jersey Economic Stimulus Act of 2009," provisions, certain; revised, C.52:27D-489o, amends C.18A:64-85 et al., Ch.10.
New Jersey Epilepsy Task Force; established, Ch.48.
Public Advocate, Department; abolished, functions, powers, duties, certain; transferred, C.52:27EE-86, amends C.2A:158A-3 et al., repeals C.52:27E-50 et al., Ch.34.
State entities, purchase of biofuels instead of fossil fuels; encouraged, C.52:34-6.6 et seq., Ch.101.
Victim claims, payment, exception to five-year limit; established, amends C.52:4B-18, Ch.92.

TAXATION
Annual cap on corporation business tax benefit programs; temporarily reduced, C.34:1B-7.42c et al., Ch.20.
Banking and Insurance, Department, taxes, assessments dedicated to administrative costs, laws regarding; amended, amends C.17:1C-31 et al., Ch.21.
"Motor Fuel Tax Act," C.54:39-101 et seq., amends C.54:15B-7 et al., repeals R.S.54:39-1 et al., Ch.22.
Motor fuel tax act, implementation; deferred, C.54:39-150, amends C.54:39-102 et al., Ch.79.
Municipal calculation of reserve for uncollected taxes, certain circumstances, minimum threshold; eliminated, amends N.J.S.40A:4-41, Ch.56.
Municipal hotel occupancy tax, provision of information, certain, to municipalities; required, C.40:48F-6 et seq., amends C.40:48F-1 et al., Ch.54.
New Jersey earned income tax credit, benefits; reduced, amends C.54A:4-7, Ch.27.
Property tax levy cap; reduced, increases, certain, banking; permitted, amends C.18A:6-114 et al., repeals C.18A:7F-5a et al., Ch.44.

UNEMPLOYMENT COMPENSATION
Benefit claim procedures, authorized agents of parties to procedures; laws revised, C.43:21-6.2 et seq., amends R.S.43:21-6 et al., Ch.82.
Employer unemployment taxes during FY2011; reduced, amends R.S.43:21-7 et al., repeals C.34:1A-16, Ch.37.
UI benefits, exhaustion, four weeks pre-notification to recipient; required, C.43:21-4.3, Ch.118.

WATER SUPPLY
Public providers of utility services, electronic billing of customers, certain circumstances; permitted, C.40:62-25.6 et al., amends C.40:14A-7 et al., Ch.91.

WATERWAYS
Stormwater basins in Barnegat Bay, study, inclusion of repairs in capital project plans; required, C.27:1B-22.4 et al., Ch.114.